

Thesis submitted for the Degree of

Doctor of Philosophy

OBLIGATIONS BEYOND THE STATE

THE INDIVIDUAL, THE STATE AND HUMANITY

IN INTERNATIONAL THEORY

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and Political Science.

## ABSTRACT

This thesis is concerned with one way in which political philosophy and international relations might co-operate more closely with one another. The approach so formed, international relations theory, is particularly important in order to analyse and try to resolve one of the more fundamental questions in modern politics. This question concerns the right ordering of two types of obligation, the one asserting that a man's obligations are first and foremost to the state of which he is a citizen, the other asserting that as a man he has obligations to the whole of humanity and that these have first claim upon him.

The first part of this thesis is concerned with these two theories of obligations and the way in which they are embedded within the theory and practice of the modern state. The argument attempts to set out the basic structure of these two points of view in order that their evaluation may take place in later parts of the thesis.

In the second place, the theories of Pufendorf and Vattel are considered in order to discover the manner in which they deal with these two points of view of obligation. Their theories are found to be unsatisfactory and a more adequate theory of international obligation is traced in the writings of Kant.

The third part of the thesis attempts to build upon Kant in order to take some further steps towards a theory of international relations. This section begins with the argument that the philosophy of international relations is to be understood as part of a wider enterprise, namely a theory of societies with reference to their

external relations. Accordingly, the thesis attempts to distinguish a variety of principles which might be at the heart of one society's relations with another. Through the use of a 'myth' the argument proceeds to arrange these principles into a hierarchy in order to represent their distance from or proximity to a condition where international relations are organised according to principles which have their bases in Kant's thought.

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TABLE OF CONTENTS

<u>P A R T     O N E</u>		<u>Page</u>
INTRODUCTION:	Political Philosophy and International Relations ..	4
CHAPTER ONE:	The Main Dimensions of International Theory ..	14
CHAPTER TWO:	The Internal and External Points of View of Obligation in the Theory of International Relations - part one ..	22
CHAPTER THREE:	The Internal and External Points of View of Obligation in the Theory of International Relations - part two ..	45
CHAPTER FOUR:	The Idea of Progress in the Internal and External Points of View ..	59
CHAPTER FIVE:	The Philosophy of Inter- national Relations ..	82
<u>P A R T     T W O</u>		
INTRODUCTION:	.. .. ..	111
CHAPTER SIX:	Pufendorf's Theory of the State and International Relations ..	113
CHAPTER SEVEN:	Vattel's Theory of the State and International Relations ..	150
CHAPTER EIGHT:	Kant's Theory of Morals and International Relations ..	170

P A R T    T H R E E

		<u>Page</u>
CHAPTER NINE:	Moral Freedom and the Theory of International Relations ..	221
CHAPTER TEN:	From Ethnocentric Society to the State ..	235 ✓
CHAPTER ELEVEN:	From the Separate State to International Society ..	266
CHAPTER TWELVE:	The Universal Contract and the Principles of International Society ..	297
APPENDIX ONE:	Some Further Notes on the Development of International Relations Theory ..	315 ✓
APPENDIX TWO:	John Rawls and the Theory of International Relations ..	319 ✓
BIBLIOGRAPHY	.. ..	325

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PART ONE

## INTRODUCTION

### Political Philosophy and International Relations

It was argued many years ago that the discipline known as political philosophy and the study concerned with the relations between states might begin to search for fruitful points of contact. Those who argued for a philosophical approach to international relations not only pointed to the absence of classic texts in the theory of international relations and to the traditional disinterest shown by the major political philosophers in the external relations of the state. They were also concerned to rebuke the practitioners of international relations for neglecting to formulate and discuss philosophical problems which were unique perhaps to their subject-matter.<sup>1</sup> The claim for a philosophical approach to international relations, which would be comparable to the place of political philosophy in the study of government, was not followed by specific discussions of particular issues which the theory of international relations had been summoned to contest. Consequently, two disciplines

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1. Main writings in defence of a philosophical approach to international relations include H. Bull "International Theory: The Case for a Classical Approach" in K.E. Knorr and J.N. Rosenau, *Contending Approaches to International Politics*, Princeton, 1969, pp. 20-38; M. Wight's "Why is there no International Theory?", in H. Butterfield and M. Wight, *Diplomatic Investigations*, London, 1966; A. Wolfer's "Political Theory and International Relations" in *Discord and Collaboration*, John Hopkins, 1962, pp. 233-251. Somewhat earlier G.D.H. Cole maintained 'Political theory has been Cartesian in method. It has sought to define the nature of the state by the analysis of the consciousness of a typical state'. Moreover 'this introspective philosophy ... is fatal to political theory because it shuts up the state in the circle of its own ideas, and prevents philosophers from confronting the problem of the relations of state to state'. See "The Nature of the State in View of its External Relations", *Proceedings of the Aristotelian Society*, Vol. XVI, 1915-16, p.311.

which are so approximate to one another have continued to develop without any particular regard for each other's interests and activities.

Various reasons might be offered for the continued separation of moral and political theory from the study of international relations. In the first place, many of the more important approaches within the study of international relations have not been favourably disposed towards the discussion of normative questions. This is not to say that the normative dimension is all that a philosophical approach could consider. On the other hand, most if not all the classic texts in political theory began with a set of questions or problems regarding human conduct and the principles which might govern it. Some approaches to international relations have excluded this whole range of inquiry on the grounds that inter-state conduct differs substantially from the conduct of domestic politics by taking place within a unique context, one marked by the absence of government. The 'realist' mode of analysis, for example, has consistently tended to overlook or deny the place of moral values in inter-state conduct. Alternative approaches within the tradition of descriptive social science have either positively encouraged or uncritically conveyed some version of skepticism about ethics which is hostile to the development of a theory of international relations along classical lines and proportions.<sup>1</sup>

In addition, a cursory glance at almost any major text in

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1. For example, E.H.Carr, *The Twenty Year's Crisis*, London, 1962, p.79. Strategic theory is discussed in E.B.F. Midgley, *The Natural Law Tradition and the Theory of International Relations*, London, 1975, Ch.12, Part I. Representative of social-scientific theory is E.B. Haas, *Beyond the Nation-State*, Stanford, 1964, see below p.11.

political philosophy will serve to show that the traditional range of problems with which it is concerned arise from reflection upon human conduct within the state. Political philosophy has been decidedly state-centred by preferring to reason about those relationships and institutions held characteristic of the separate, sovereign state. This tendency of political philosophers to direct their discipline to the discussion of the separate state may simply be a reflection of dominant cultural assumptions which regard the separate, political association as the legitimate form of political organisation. Many political philosophers simply have not found it necessary to give any philosophical account of a humanity divided into separate, sovereign states. Indeed, the work of John Rawls, who more than any other single writer represents the rise of political philosophy from its recent slumbers, proceeds, as has been noted, without any significant focus upon the problems of states in their external relations.<sup>1</sup>

It is of course, true that some political philosophers have proposed major ideas which have a considerable bearing upon the validity of the separate, sovereign state. Montesquieu, and later Rousseau and Hegel, held that the civic virtues could only be upheld within a limited political community which did not appear likely to develop on an inter-state level. Whether or not the theory and practice of federalism contributes greatly to the problem of governing large, political associations, it is undeniable that the problem of community on an international scale has deterred political thinkers

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1. J. Rawls, *A Theory of Justice*, Harvard, 1971. Only pages 378-379 deal with the principles of international relations. For a criticism of Rawls see B. Barry, *The Liberal Theory of Justice*, Oxford, 1973, Ch.12 and appendix two below, pp. 319-324.

from considering ambitious international arrangements which might replace separate, sovereign states. Hegel is undoubtedly the major exponent of the view that philosophy should be concerned with understanding what is rational within existing political associations and institutions rather than within ones which some think ought to be although they appear to lack any ability to stir men to bring them into existence. It is arguable that Hegel made explicit what has remained implicit for the most part within the writings of all but a few political thinkers.<sup>1</sup>

What then is the justification for wishing to indulge in a mode of inquiry which mainstream political philosophy has wished to avoid? We may begin by considering some aspects of the contemporary world which have led thinkers to take a fresh look at the nature of international relations. One of the most significant developments in the contemporary study of politics has been the search for a closer co-operation between the academic study of its domestic and international dimensions in response to the nation-state's diminished immunity from events having their origins beyond the national frontier. The concern with international economic relations and transnational relations within the broader focus upon interdependence reflects the nature of the change in contemporary political life. Let us consider, for example, Mitrany's remark that:

'If one were to visualise a map of the world showing economic and social activities, it would appear as an intricate web of interests and relations crossing and recrossing political divisions - not a fighting map of states and frontiers, but a map pulsating with the realities of everyday life.'<sup>2</sup>

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1. G.W.F. Hegel, *The Philosophy of Right*, Oxford, 1952, Preface, esp. pp. 11-13.
  2. D. Mitrany, "The Functional Approach to World Organisation" in C.A. Cosgrove and K.J. Twitchett, *The New International Actors*, London, 1970, p.74.

These attempts to reconsider the nature of international relations and efforts at re-assessing the capacity of the separate, sovereign state to deal with them would appear to cast doubt upon any political philosophy which addresses itself merely to the separate, sovereign state. Since Hegel 'painted his grey upon grey' the nature of international relations has changed substantially and it is worthwhile considering whether or not such changes should now be reflected within the way in which we conduct our political philosophy. It has been stated for example that:

'The architectonic role Aristotle attributed to the science of the polis might well belong today to international relations, for these have become in the twentieth century the very condition of our daily life. To philosophise about the ideal state in isolation, or to theorise about political systems in the abstract, has become almost meaningless.'<sup>1</sup>

In short, a political philosophy which considers only legitimate relationships and associations within the state risks excluding some of the more fundamental forces affecting the state, forces which have their origin within the international environment. The development of international relations theory may be seen as part of a larger enterprise which attempts to overcome, where necessary, the separation of domestic and international politics.

The interdependence of the domestic and international dimensions of political life requires the expansion of the scope of political theory. In the first place, a political theory which focusses upon the state with regard to its internal character alone conveys the idea that the international aspect of political life is without meaning or rationality. It is involved in suggesting that the nature of the

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1. S. Hoffman, *Contemporary Theory in International Relations*, New Jersey, 1960, p.4.

state's external relations does not need to be integrated within a broader, more complete theory of politics. Now this is very unsatisfactory where citizens of different communities are increasingly causally connected and where the ability of the state-system to manage shared global problems is more evidently a question. For these reasons study of the relationships within the separate political community needs to be considered within a broader context which includes the 'intricate web of interests and relations crossing and re-crossing political divisions'. It has been said, for example, that:

'Nations have not yet learned to take the role of the other, and to participate consciously and morally in the wider social processes which they are in fact engaged in.'<sup>1</sup>

International relations theory has to consider the fact that while men are increasingly causally connected they are divided into separate sovereign states which are not at this stage manifestly willing to ground their relations upon shared moral principles. International relations theory may reasonably be charged then with considering anew the status of the sovereign state as a separate entity, a consideration which is intensified by the scope of international interdependence. It may reasonably be concerned with rethinking the basis for political obligations among members of a separate political association and integrating these obligations with obligations owed to the rest of humanity. It is no longer 'utopian' to set forth an account of the obligations of the citizen to humanity or of one body politic to another. For, as we have said, contemporary international relations point to the obsolescence of any political philosophy which takes for granted the acceptability of that condition where humanity is divided

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1. G.H. Mead, *Mind, Self and Society*, Chicago, 1934. See introductory remark by C.W. Morris, p. xxxv.

fundamentally into separate, sovereign states.

Periods of flux and upheaval have often occasioned new political theories which reconsider the foundations of social and political life. Such periods occasion the development of different systems of concepts which seek to explore alternative methods of harmonising different aspects of human experience. And so it has been within the study of international relations. There is now a considerable body of literature within the functionalist tradition of thought which has as its main objective a move 'beyond the nation-state'. Even so, this is a move beyond the nation-state to an alternative means of organising international relations which can proceed, it is thought, without the active involvement of political philosophy. Mitrany himself appears to have thought that political philosophy was not an essential part of the reconsideration of social and political life:

'The immediate issue is nothing less than breaking away from a concept and practice which since the end of the Middle Ages had been inculcated as an ideal, the near worship of the national-territorial state. But if we are to wean our minds and our ways away from that centuries-old political acceptance, the objectives must make sense to the vast generality of the peoples everywhere, and therefore be stated in language which people everywhere can understand. Esoteric constructions and idiosyncratic academic codes are the surest way to make nonsense of the whole argument for a new way of political life.'<sup>1</sup>

There is, of course, a lesson in this to those who might be inclined to assign too great an importance to the role of philosophical ideas, among others, in bringing about political change. However, deeply embedded within functionalist thought is a view of man which would

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1. D. Mitrany, "The Functional Approach in Historical Perspective", *International Affairs*, London, July 1971, p.543.

seem opposed to any intellectual reconsideration of our obligations to the state and to the rest of humanity. The most radical challenge to the state-system disappoints in that while it sees possibilities for a rearrangement of international relations in the interdependence of societies, it refuses to offer any normative system of concepts for the guidance of human conduct - even in only the broadest of terms - within this changing condition. And indeed one of the important functions of traditional political philosophy was to seek to redefine the goals of political life within circumstances where previously acceptable values had begun to lose their appeal. But this is an option which functionalist thought has been reluctant to employ.

Functionalism approaches international co-operation, so it has been suggested, 'without any utopian assumptions'.<sup>1</sup> Since 'personal loyalties are the result of satisfaction with the performance of critical functions by an agency of government' functionalism aims to demonstrate that the interests of men would be better satisfied through the creation of international institutions which would replace sovereign states.<sup>2</sup> Accordingly, it has assumed a view of man which stresses the utilitarian side of his nature and the instrumental side of his institutions. The neo-functionalist in embracing an interest group theory of politics emphasises man as a utilitarian calculator:

'Co-operation among groups is then the result of convergence of separate perceptions of interest and not a spontaneous surrender to the myth of the common good.'<sup>3</sup>

The move 'beyond the nation-state' will take place not through any reconsideration of the obligations of the citizen to the state and to

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1. Haas, *op.cit.*, p.33.

2. *ibid.*, p.49.

3. *ibid.*, p.34.

citizens of other states but through an appeal to 'hard facts' which demonstrate the inefficacy of the state.

The theory of international relations, in addition to aiming to produce alternative conceptual schemes in the light of changed circumstances, is concerned with investigating the presuppositions of other interpretations of contemporary international relations. And the main objection to functionalist thought regarding its view of man is that it is too ready to emphasise man as a self-interested creature and too ready to discount his view of himself as a being to whom obligations are due and to whom rights are attached. It is this one-sided account of man which has led functionalism to consider methods of producing social and political change at the cost of reflecting upon the character of the institutions which might develop alongside and even replace the separate, sovereign state. The task of an international relations theory is then to explore the possibilities of grounding international institutions upon rational principles, of accounting philosophically for some of the ends which might be valued within the context of contemporary international relations.

The fundamental objective of this thesis is then to consider whether or not the justification or invalidation of a humanity divided into separate, sovereign states may proceed not simply in terms of the efficacy of the nation-state and its consequences for our interests, but in terms of the moral obligations which may be shown to exist between men.<sup>1</sup> The thesis is concerned, in short, with the question

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1. These two ways of regarding the state-system are discussed in M. Wight, *Power Politics*, London, 1946, pp.67-68, and in G. Goodwin and A. Linklater (eds.), *New Dimensions of World Politics*, London, 1975, especially pp. 16-19.

Typical of the 'interest' approach is C.B. MacPherson's remark that given the fear of nuclear war "an acceptable theory of obligation of the individual to a wider political authority  
[over]

of whether or not there are international obligations - obligations between the citizens of different states - which might serve to criticise the dominance of the state-system as we know it and justify its evolution towards the establishment of international institutions to supersede the jurisdiction of states over substantial areas of social and political life.

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should now be possible". *The Political Theory of Possessive Individualism*, Oxford, 1962, pp. 276-277. Typical of the 'moral' approach is T.H. Green, *Prolegomena to Ethics*, Oxford, 1906, esp. 'The Extension of the Area of Common Good', pp.237-253. For example: "We only know that the earliest ascertainable history exhibits to us communities, relatively very confined, within any one of which a common good, and in consequence a common duty, is recognised as between the members of the community, while beyond the particular community the range of mutual obligation is not understood to extend. Among ourselves, on the contrary, it is almost an axiom of popular Ethics that there is at least a potential duty of every man to every man - a duty which becomes actual as soon as one comes to have any dealing with the other." p.238.

CHAPTER ONE

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The Main Dimensions of International Theory

In the absence of a developed tradition of theorising about international relations it is necessary to begin with a description of the central characteristics and purposes of the kind of international theory to be advocated here. Initially, two main dimensions require consideration. In the first place, there is a need to present an account of the main conceptual schemes to be employed. To assist the development of international theory it is useful, so I shall argue, to formulate two points of view of the relationship between the separate state and the remainder of humanity. These two contrasting points of view will be known as the 'internal' and 'external' points of view of obligation.<sup>1</sup> Once these perspectives have been described fully it will be necessary to consider their implications for the modern state and its external relations.<sup>2</sup> Here it will be argued that both the internal and external points of view are deeply rooted in the character of the modern state and that a theory of international relations must attempt to evaluate their competing directives. The second main dimension, then, will be concerned with an analysis of the arguments adopted by representative thinkers within each of the two perspectives.<sup>3</sup> But let us begin first of all with a discussion of the conceptual problem in international theory and the manner in which the two points of view can overcome this difficulty.

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1. These two perspectives are discussed in chapters 2-4.

2. See below chapter 5.

3. See part II, chs. 6-8.

The Conceptual Dimension in International Theory

Recent political theory has emphasised the need to study the main concepts of political argument, attempting to distinguish where there is confusing or ambiguous usage, to define in order to arrive at a clearer understanding of the terms of argument, and to create where ordinary language fails to conceptualise a distinguishable aspect of social and political life. Concepts and conceptual schemes must be sufficiently precise before any international theory can get off the ground. The problem of the main concepts to use in international theory is a particularly acute one. Referring to this problem Martin Wight wrote of

'a kind of recalcitrance of international politics to being theorised about. The reason is that theorising has to be done in the language of political theory and law. But this is the language appropriate to man's control of his social life. Political theory and law are maps of experience or systems of action, within the realm of normal relationships and calculable results. They are the theory of the good life. International theory is the theory of survival. What for political theory is the extreme case (as revolution or civil war) is for international theory the regular case.' <sup>1</sup>

Martin Wight goes on to maintain that the typical events of international politics are 'constantly bursting the bounds of the language' used to handle them. Once again, it is the seemingly unique nature of international relations, the decentralised or 'anarchic' condition of states, which prevents international theory from developing along the sophisticated lines of a philosophy which explores the character of the state. But, as Bull has said in his appraisal of Wight, this

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1. Wight, *op.cit.*, p.33.

is, if anything, 'a reason for trying to find a language that is appropriate'.<sup>1</sup> The introduction of conceptual schemes is therefore one of the central priorities for international relations theory.

It is arguable that Wight's contrast between domestic and international politics is overdrawn, and that indeed to highlight them in too dramatic a fashion is to be in danger of overlooking possibilities for theoretical inquiry. Wight himself appears to have thought that the role performed by political theory in the study of domestic politics can be best performed by historical interpretation in the study of international relations. Whatever the interpretation of this is to be, it is not evident that it, historical interpretation, can properly investigate two fundamentally important functions of the theory of international relations - the examination of the rapports between the theory of the state and the organisation and ordering of the state-system (the examination of this area is of particular importance since any 'domestic' political theory will have implicit if not explicit implications for the organisation of world society); and secondly, the examination of the philosophical account of man and society which will necessarily underlie the theory of the state and influence any implicit or explicit account of the proper organisation of world society. A discussion of these two issues forms an important part of the theory of international relations. Indeed, the exploration of the concepts of an internal and external point of view is one of the means by which this thesis proposes to investigate more fully some of the rapports between the theory of the state and the theory of the organisation of international relations.

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1. H. Bull, "Martin Wight and the Theory of International Relations", *British Journal of International Studies*, no.2, 1976, p.114.

Any theory of state will, it has been stated, indicate or contain implications for the way in which world society might be organised.<sup>1</sup> To consider an extreme example, a philosophy which understands the state as the highest ethical community will preclude the organisation of world society in such a way as to allow substantial jurisdiction to rest in the hands of international institutions. In this sense the relationship between the theory of the state and the theory of international relations is direct, the latter being already contained within the former. In other theories of the state the implications of the theory may be implicit and not necessarily evident to its author.

Let us consider this latter point with regard to Sir Robert Filmer's criticism of social contract theory.<sup>2</sup> Central to that theory is the idea of a state of nature comprising individuals who are not bound at all by political obligations. It is further maintained that political power cannot be exercised without the individual's consent to submit to political authority. Now, in the case of Locke for example - who later exemplifies this theory - there is no detailed discussion of the processes whereby men come to establish *separate*, sovereign states.<sup>3</sup> It is at this point that Filmer's criticism of contract theory is of interest to us. For, according to Filmer the

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1. "A theory of the state must be, from one angle, a philosophy of international Law." H. Laski, *The State in Theory and Practice*, London 1949, p.218.
  2. The following paragraph relies heavily on J.P. Plamenatz. *Man and Society*, vol.1, London 1963, pp. 178-179.
  3. Locke, *The Second Treatise on Government* (ed. P.Laslett), Cambridge 1960, especially chapters 2 and 8. Other writers within this contractarian tradition did attempt to explain the separation of humanity into sovereign states. See the discussion of Pufendorf and Vattel below, pp.124-138, and pp. 151-152.

division of men into separate, sovereign states would itself require the consent of the whole of mankind:

'If they understand that the entire multitude or whole people have originally by nature power to choose a King, they must remember that by their own principles and rules, by nature all mankind in the world makes but one people, who they suppose to be born alike to an equal freedom from subjection; and where such freedom is, there all things must of necessity be common: and therefore without a joint consent of the whole people of the world, no one thing can be made proper to any one man, but it will be an injury, and a usurpation upon the common right of others. From whence it follows that natural freedom being once granted, there cannot be any one man chosen a King without the universal consent of all the people of the world at one instant, nemine contradicente.'<sup>1</sup>

Before the individual could consent to have a particular government exercise control over him the whole of mankind would have to consent to the movement from the natural condition of undivided humanity to the formation of separate, sovereign states. So Filmer argued.

It might be argued in opposition to Filmer that it is submission to a particular government rather than the creation of a condition of divided humanity that traditional contractarian theory is concerned to ground on consent, and that theorists within this tradition may reasonably treat the former without the latter. The process of separating from humanity is not one with which they need to concern themselves. This is indeed a plausible argument where individuals do not have transactions at the 'global' level. Where individuals are relatively confined in their movements and where the effects of their actions are confined to their immediate neighbours it is stretching it a little to refer to men separating from humanity.

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1. Sir Robert Filmer, *The Anarchy of a Limited or Mixed Monarchy in Patriarcha and Other Political Works* (ed. P. Laslett), Oxford 1949, p. 285.

There is in a sense no humanity from which to separate. Nevertheless, it would be possible to refer to the formation of separate, sovereign states as separating from humanity where this concept is understood philosophically rather than empirically. According to this second sense a number of individuals separate from humanity where they establish some association among themselves which totally denies the existence of moral obligations towards the rest of humanity. If within the state of nature, where men do have moral obligations to one another, some men proceed to establish a political community among themselves and refuse to regard themselves as morally bound to outsiders, they are, so to speak, separating themselves from humanity. Separation here takes place not merely through the severance of connections with an ongoing world society, for example, but through the rejection of a system of moral obligation which is capable of embracing all men. Should one man submit to a government, which is to have jurisdiction over the whole of known society, and later become aware of other societies that man could be said to be separating himself from humanity were he not prepared to recognise the moral obligations due to them as men and, indeed, reconstitute his own political society so that these moral obligations might be more easily honoured. In this sense, the unilateral establishment of a separate, sovereign state is of concern to the remainder of mankind, not least of all because of its capacity to influence the lives of men elsewhere. The idea that political affairs should be grounded on consent can hardly be reserved for the condition where men submit to government. This principle of consent requires then a commitment to the argument that the division of men into separate, political communities would need the consent of the whole of mankind. Otherwise any group which

unilaterally established itself as a sovereign state would be illegitimate insofar as it usurped 'the common right of others'. In this way, the contractarian argument for the state has clear implications for a theory of international relations. They may not be as evident as in the argument for the state as the supreme ethical association, but they are there nevertheless.

Let us now consider this argument from a different perspective, one which will give a clearer indication of the role of the internal and external points of view in exploring the relationships between the theory of the state and the theory of international relations. Contract theory begins with a discussion of the state of nature which is a pre-political condition where all men are governed by a law of reason. Here it is employing one of the central ideas of Western thought, namely that a man has moral obligations to every other person on the face of the earth. These are obligations attached to them as men and not as participants in a common society. They are evidently natural obligations and more fundamental than the obligations which men might create for themselves through law and custom within particular societies. But if men can be conceived of establishing separate, sovereign states then this natural morality will be frustrated. One of the central assumptions of the separate, sovereign state, as we know it, is that a citizen is obliged first and foremost to his separate political association, that obligations to humanity are necessarily secondary by virtue of his membership with others of a society - an idea which is equally central to Western thought. There are in other words two separate perspectives within contract theory, the one maintaining the existence of a universal community 'higher' or more fundamental than the state, the other maintaining that the

fundamental community and source of obligation is the separate state. The first perspective is central to the external point of view; the second perspective is central to the internal point of view. At a later stage I shall argue that these are two fundamental responses to the division of mankind into separate states and two important viewpoints to consider in the elaboration of an international theory. At this stage, however, it is sufficient to say that we have two conceptual schemes, two ways of considering the relationship between the separate state and humanity, with which to begin a fuller discussion.

CHAPTER TWO

The Internal and External Points of View  
of Obligation in the Theory of  
International Relations

PART ONE

'The history of the human species as a whole may be regarded as the realisation of a secret plan of Nature for bringing into existence a political constitution perfect both from the internal point of view and, so far as regards this purpose, from the external point of view also: such a constitution being the sole condition under which Nature can fully develop all the capacities she has implanted in humanity.'

(Kant)

'They moralise from without instead of understanding the nature of the state from within.'

(Friedrich Meinecke)

I

In the following section I propose to clarify a distinction I have made between two fundamental conceptions of the nature of obligation in a world of separate states. I have selected the terms the 'internal' and 'external' points of view to stand for two contrasting theories about the relative standing of obligations to members of one's society and of obligations to members of other societies (hereafter to be called 'insiders' and 'outsiders' respectively). Through these conceptual schemes it is possible, I believe, to begin a discussion of the relationships between the theory of the state and the theory of international relations - an area of considerable importance to international relations theory. I shall briefly indicate the nature of the distinction between these two outlooks before offering

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PART ONE

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a more detailed inquiry into their respective internal composition.

The internal point of view indicates the way to resolve any possible conflict between obligations to insiders and outsiders, or indeed to prevent such a conflict arising. It attempts to kindle the emotion or foster the thought of one's society as the highest and most embracing moral community. Outsiders are either placed beyond the boundaries of moral consideration altogether or, where a society does recognise certain obligations to them, it is clearly understood that these are secondary or residual. Either way a clear priority is established among the individual's obligations and primary moral responsibility to insiders is reinforced.

At this stage I do not propose to make distinctions between types of society which manifestly enact an internal point of view. Suffice it to say that the concept refers to an awareness and desire to preserve limitations upon the extent of moral community. I do not propose then to discuss the many ways in which the internal point of view may appear. Every society which wishes to preserve its cohesive and separate moral community will illustrate this point of view in one way or another. The precise articulation of the internal point of view, or the particular content it is given, will vary with the cultures and structures of particular societies. An early society with an ethnocentric bias will illustrate an internal point of view at variance with any underlying the modern state. Among states themselves the internal point of view will take different expressions. It is certain that Greek city-states, the states of Renaissance Europe or the states of China in the Warring Period, and modern nation-states will reveal nuances in their respective statements or enactments of this point of view according to their different methods of organising

society and their different cultural perspectives including those which relate directly to outsiders. These differences are not in doubt, but there is certainly a common identifiable theme, namely that obligations within the separate community, owed by members to one another, take precedence or override obligations to any actual or possible group of outsiders. Their common ground is a belief, implicit or explicit, in a morally relevant distinction between the insider and the outsider, and in a supposed justification for treating the two groups differently. Now it is clear that all insiders are rarely if ever treated as absolute equals in any society, and it would be possible to discuss varying moral standards within any separate community. It would therefore be a mistake to assume that the internal point of view presupposes equal treatment for all insiders. It merely assumes that insiders take priority over outsiders, or that the separate community takes precedence over outsiders, and is therefore inherent in any community which wishes to build, maintain or assert its separateness. Nor does the internal point of view assume that all outsiders share the same status and are to be treated in much the same way. An internal point of view may discriminate between outsiders and structure its external social environment in particularly complex ways. It may distinguish, for example, between those outsiders who are on its plane of civilisation and those who are no more than barbarians. This structuring of the world of outsiders may have interesting effects on the way in which a society conducts its external relations. Nevertheless as long as the separate community wishes to preserve its separateness as a moral entity it will have at its core an internal point of view. This point of view is firmly entrenched in the theory and practice of the separate political

association of the West. Indeed its recurrence in the thought and behaviour of other cultures (as in Kautilya in Indian thought) allows us to form the judgment that every political society which is not co-extensive with humanity, or which is exclusive, will give rise to an internal point of view shaped by its traditions and experience.

The internal point of view is necessarily related to the idea of the value of the separate moral and political community. There is no separate community without its internal point of view. The external point of view, however, is not necessarily a feature of the separate moral and political community, but arises and makes its presence felt only in those societies which develop a particular ethical perspective. In short the external point of view makes an appearance only in those societies which develop the idea that there is a moral community among the whole of mankind. When this latter understanding comes to have a bearing upon a society's idea of what it ought and ought not to do in its relations with outsiders, that society takes its first steps into an external point of view. The separate community is now faced with a vision of responsibilities and obligations extending beyond the moral community as it has been traditionally understood. Faced with the idea that there is a moral community among the whole of mankind, the separate community has to reconsider its place in the larger social world. This reconsideration is not something which the separate community must necessarily experience. Separate communities can and have continued to exist without any belief in the moral unity of mankind and without any attempt to bring this idea to bear upon the manner of their external relations.

A society's understanding of the moral community of mankind

can have a number of different expressions. The Christian idea of the unity of mankind differs from the Kantian idea of the 'kingdom of ends', and both differ from the Confucian idea of jen. Similarly, the external point of view, which seeks to bring this idea to bear upon the actual conduct of a society's or state's external relations will take various forms. The shape taken by the external point of view will depend certainly on the manner in which the unity of mankind is conceived. The external point of view will also bear the mark of the historical experience and imagination of the society concerned. The moral unity of mankind, however conceived, is compatible with a variety of different conceptions of the right way of organising that humanity at the social and political level. Again, the external point of view will develop various nuances and offer different accounts of the right way of organising humanity or of conducting relations between separate communities.

Let us consider some of the forms the external point of view might take. A society which adopts this perspective may criticise other societies which infringe the rights of their own members or conduct practices held to be contrary to some universal law. The former society may feel obliged to intervene or use pressure to persuade other societies to change their ways. At a more sophisticated level, the former society may attempt to limit its claims on others or take the interests of other communities into account because of its moral convictions. It may believe that states should engage in greater co-operation to assist each other or to reconcile conflicting aims according to moral principles. Or, a society may believe that the most perfect formulation of the external point of view requires that the moral unity of mankind receive political expression in a

world-wide association which supersedes the division of humanity into separate political groupings. Undoubtedly, these interpretations will be dependent to some extent on the cultural perspective of the time. For example, the traditions and experience of a particular community may preclude it from thinking along the lines of the political unification of mankind. The external point of view will therefore reflect the culture and experience of a particular society.

Since the external point of view arises within particular societies which take the view that mankind forms a moral entity it will, at least in its initial formative stages, compete with the directives of the internal point of view. There will be, in these early developments, a competition between the opposing requirements of the two points of view. Once again, the nature of the society's culture and experience will make its presence felt. For if culture shapes the ways in which the two points of view are articulated then it is equally likely to shape the responses of a society to the tensions its members feel when faced with these competing moralities. At a later stage this thesis will consider the place of philosophy in attempting to decide a rational approach to the problem of an individual who may feel the pull of these two conflicting points of view. While the internal point of view presents the individual with obligations designed to preserve the separateness of the political community, the external point of view asserts that individuals are bound by a common morality which can regulate the relations of the separate political associations to which they belong. And while the internal point of view stresses the obligations of membership and the exclusiveness of the community, the external point of view maintains the inclusiveness of a moral community which embraces all men. When we

disregard the various articulations and supposed justifications of each point of view we can regard them as two fundamental modes of experience, the former asserting the obligations incurred through involvement in shared social life, the latter asserting that the obligations a man should honour extend beyond the community, with which his everyday life is bound, to embrace the whole of humanity.

## II

I propose now to begin a discussion of the presuppositions and implications of those two points of view. In order to do this I wish first to clarify some other expressions which will be used in this thesis. I shall call a world society characterised by separate political associations each enacting its internal point of view a diplomatic society. And I shall call a world society in which separate communities act out an external point of view (by regarding each other's interests and through a willingness to move towards their political unification) an international society. Diplomatic society and international society are two terms which refer to a world where one of the two points of view is predominant in providing the fundamental values. Corresponding to this are two possible types of international relations theory. A theory which explores the first kind of world society, and recommends courses of action appropriate to it, will be called a diplomatic theory; and a theory which considers the kinds of consideration which ought to prevail in a world society founded on external points of view will be called an international theory. According to these terms, Machiavelli is an example of a diplomatic theorist while Kant is an example of an international theorist.

The theory and practice of diplomatic society is concerned with the external relations of states primarily in a technical rather than in a moral sense. Since the obligations of individuals are to the separate state, since the obligations of membership are primary, the problems of international relations are essentially technical. For any one state the problem of international relations is to ensure an environment in which it is able to preserve its separateness and exclusiveness. The separate community is concerned fundamentally with its own advantage and 'has not yet learned to take the role of the other'. But this is not to say that it is prepared or willing to sacrifice the interests of other societies to its own wherever possible. While some variations of the internal point of view refer to political associations which are motivated solely by an aggressive manifestation of their national interests, the variant to be considered in this thesis does not desire to infringe the separateness and independence of other states. In this variant states may evolve rules for themselves through diplomatic methods and so exist in a type of society, a diplomatic society or state-system. It is essential, however, that such rules have the consent of separate states. It is contrary to every formulation of the internal point of view that a state should be bound by rules or principles to which it has not consented albeit tacitly. By making this condition, the internal point of view according to this formulation is not setting out to deliberately ignore the interests of others or to flaunt some international morality. We are concerned here with a state which is ego-centric, whose major point of view is its own, but which is albeit dimly aware of a morality that might regulate the relations between political associations.

It is not possible to say that a state with this point of view will avoid all moral problems in the conduct of its external relations. But the moral problems of a society with this perspective reflect simply its belief in the validity of its own cultural norms. To explain this let us think of one society where men eat dogs and another where men do not eat dogs. It is conceivable that the latter might refuse to have relations with the former on account of its 'barbaric' customs. It may simply feel a repugnance towards this practice, but may not feel any inclination to attempt to make the other society change its ways. The feeling it has for the other community may prevent that society from engaging in relationships characteristic of states which constitute a diplomatic society. Their relationship is to that extent a pre-diplomatic one. Even here, however, it is arguable that one community is bringing a universal standard to bear on its judgment of the practices of another society, a universal standard in the sense that it appears to postulate, however implicitly, a general rule to the effect that no man should eat a dog. In that sense the separate community broaches the external point of view at a fairly simple level.

There is, however, a sense in which a society may experience a moral dilemma without in any way supposing there is a morality which embraces the whole of mankind. Let us assume the existence of a society where the internal point of view is based on a doctrine of racial supremacy. The separate society refuses to recognise any obligations in its relations with outsiders on the grounds of its racial superiority. This belief necessarily precludes the acknowledgment of a morality which transcends the division of men into separate states. One of the basic moral problems which could arise for a

society of this kind would involve the question of inconsistency. Let us assume that this society did not normally engage in relationships with outsiders, or stood in a pre-diplomatic condition with them, solely on the basis of its principles of racial supremacy. Let us assume further that this society is threatened by an external power and for reasons of survival it proposes to collaborate with a racially inferior society. Here, and assuming the belief in racial supremacy is genuine, the former may experience a moral problem which arises over its proposed inconsistency.<sup>1</sup> The moral tension which exists is concerned simply with the primacy of the internal point of view and the problem of its applicability.

To simplify the course of the argument of this thesis I shall focus principally upon only one of the possible formulations of the internal point of view. I shall for the most part ignore those formulations which depend upon racial supremacy or some aggressive form of nationalism. The thesis is not concerned with communities which are prepared to exist in only a pre-diplomatic condition with others. The following discussion is concerned with that formulation of the internal point of view which exhibits three main characteristics: in the first place, it stresses obligations to fellow-citizens not on account of racial affinity or national sentiment, but in terms of rational principles which defend the primacy of obligations of membership. Secondly, it arises within a community which is not as a matter of fact hostile to the interests of other states, which

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1. Morality here is, of course, defined sociologically to refer to particular beliefs within society. Only at this level can it be said, on the basis of the discussion so far, that the society experiences a moral problem. According to a second sense of morality, where it refers to a philosophically established set of principles, there may be no real moral problem here at all.

respects the separateness and independence of other states, and is prepared to engage in diplomatic procedures to develop principles for the regulation of their relations. It is an internal point of view which is then prepared to take part in a diplomatic society or a state-system. Thirdly and lastly, it is a perspective which while not denying the possibility of rules of international intercourse nevertheless maintains its right to decide whether or not to respect these rules and to honour the obligations involved in them.

I shall be concerned with the following three areas as understood by the above point of view: firstly, the concept of the rights of the state; secondly, the morality of the private person and the statesman; and thirdly, the implicit theory of international co-operation. An investigation of these areas will provide a fuller discussion of some of the relationships between the theory of the state and the theory of international relations.

### III

The attempt to discuss all the variations of the internal point of view would be a mammoth task, as would the attempt to discuss all the ways in which a community might distinguish between types of outsiders. There are certainly many ways in which these two features are related. From these I propose to discuss principally one version of the internal point of view and one image of the external social environment which is linked with it. The discussion will focus principally upon the theory of the separate state as argued within the contractual tradition in Western political thought. Obligations to the separate state are understood to arise through the consent of individuals to form a government among themselves. Individuals have

freely consented to withdraw from the state of nature in order to seek the security of government. The internal point of view arises then from their desire to preserve the separate community and so avoid the dangers of the original state of nature. The view of the outsider is relatively simple within this contractual tradition. It is normally argued that there is a morality which embraces all men in the state of nature and which does to some extent survive the division of men into separate political communities. This theory then, which is central to the theory of the modern state, puts forward an internal point of view which arises from the contract to form the separate community; but it also has within it a view of the moral equality of all men which could, according to the earlier account of the external point of view, give rise to an alternative account of the organisation of world society. A fuller account of the apparent ambiguity within these theories of the modern state will be given in later sections on the theory of the state and international relations put forward by Pufendorf and Vattel. At this stage, however, it will be sufficient to discuss some of the main features of the internal point of view which underlies one of the important theories of the modern state.

### The Rights of the State

I propose to begin with the rights of the state as these are understood within the contractual version of the internal point of view. To discuss these it is useful to refer to Walter Ullman's view that the move from medieval society and politics to the modern state is a move from a 'descending' to an 'ascending' theory of government.<sup>1</sup>

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1. W. Ullman, *Principles of Government and Politics in the Middle Ages*, London 1961, p.24.

According to the medieval principle of government 'governmental authority and law-creating competency descend from one supreme organ; power is distributed downwards, again in the shape of a pyramid, but so that whatever power is found "down below" at the base of the pyramid is not, as in the ascending theme, an original power, but one that is derived from above'.<sup>1</sup> According to the modern theory of politics 'governing authority and the law ascend from the broad base in the shape of a pyramid'.<sup>2</sup> The theory of the internal point of view underlying the modern state has to be understood against the context of 'the supersession of the descending by the ascending theme'. In particular the rights of the state are not granted by some higher authority which retains the prerogative of withdrawing them. These rights result from the consent of individuals who grant the government authority over them.

The account of the state as a product of the act of individuals is present in the writing of Grotius, a figure normally regarded as transitional between the medieval and modern period, but fundamental to the theories of Pufendorf and Vattel. According to this theory man in the state of nature is self-governing and responsible first and foremost to himself. However, there are weaknesses in acting alone and to overcome these men associate to form a collectivity sufficiently large to take care of their needs. Through this act of association men submit to a sovereign which is authorised to protect their interests. The rights individuals had to govern themselves now rest with governments responsible first and foremost to the individuals who have created them. The right of the individual to advance his own interests gives way to the right of the state to advance the

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1. *ibid.*, pp.20-21.

2. *ibid.*

interests of its citizens. Its legitimacy is not dependent upon any external source and consequently the state owes no responsibilities to those who have not contracted to form it.

To give effect to this principle it is necessary that the separate state should retain control of its sovereign power. It would infringe the conditions under which it was established were it to surrender its power to another political association. It is an important part of the internal point of view that the community retains its sovereignty in order to take decisions concerning its welfare. It is then able to act in the interests of insiders (in this case, contractors or citizens) without having to recognise any fundamental obligations to outsiders (in this case, non-contractors or non-citizens). The possession of sovereign power institutionalises the distinction between insiders and outsiders - that one set of standards will apply to the relations between insiders while a quite different set will apply to the relations between insiders and outsiders. According to this theory the community has the right to sovereign power, a right which stems from the antecedent choices of individuals and which cannot be qualified or annulled by the actions of outsiders.

Now the right to possess sovereign power is only the first in a series according to the internal point of view. It is of course a fundamental right since, if individuals are to advance their interests as a collective entity they must possess sovereign power as a guarantee of their rights against the rest of mankind. But if the community has a right of independence, a right which is epitomised but not completed by the possession of sovereign power, it must have the right to take political action to preserve and defend itself. And so the community must have the right to have recourse to war in

order to preserve its separateness. However, the right to go to war would be worthless without the right to do what will win the war, and so the community must claim the right to do whatever is necessary to win the war. In this way the community builds up a series of rights which are fundamental to it if its initial right, that of possessing sovereign power, is to be meaningful. Subsequent rights in a sense fill out what is already implicit within the first and fundamental right - the right of separateness.

This is a necessary method of proceeding where the theory of the state begins with the individual. A theory which begins with the right of individuals to advance themselves must proceed to develop a system or series of rights which will facilitate the attainment of individual ends. Thus the right to associate politically and the right of sovereign power follow from the individual right to advance his interests, and the right to war and to use techniques which will win the war follow from the right to live in a sovereign association. It is characteristic of an internal point of view shaped by an individualistic ethic to develop a theory of the state and a theory of international relations according to an 'ascending' method of proceeding. It is also clear that the manner in which the state is constituted carries clear implications for the manner in which it will conduct its external relations. This entailment becomes clearer in the following two sections.

#### The Morality of the Private Person and the Sovereign

Sovereignty, it has been maintained, institutionalises the intention to apply one standard to relations between insiders while a separate standard will apply to the relations between insiders and

outsiders. When individuals leave the state of nature they submit to a system of government with some men, but not with the whole of mankind. Individuals therefore agree to give particular guarantees to some men (which is made concrete by their submission to government and the authority of positive law) while continuing to remain with outsiders in a state of nature. The relationships between insiders are qualitatively different from the relationships between insiders and outsiders. The bond between the citizen and the state is prior to other bonds according to the individualistic version of the internal point of view. This is made quite plain in the thought of Bodin. He writes that the sovereign:

'has the exclusive right to demand unqualified oaths of submission, for the relations of the subject to the sovereign are unique in that all his other obligations, as vassal of his lord, for instance, are subject to the prior obligations to his sovereign.'<sup>1</sup>

Bodin adds:

'It is not the rights and privileges which he enjoys which makes a man a citizen, but the mutual obligation between subject and sovereign, by which in return for the faith and obedience returned to him, the sovereign must do justice and give counsel, encouragement and protection to the subject. He does not owe this to aliens.'<sup>2</sup>

This reciprocal relationship between the citizen and the sovereign is exclusive. It does not extend to the welfare of the 'alien' as he does not stand to the sovereign in the same way as the citizen. There is, as a result, a clear difference in the standards which will apply in 'internal' and 'external' relations, a difference which is inherent

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1. J. Bodin, *Six Books of the Commonwealth* (translated by M.J.Tooley), Oxford 1955, p. xxv.
  2. *ibid.*, pp. 20-21.

in the concept of sovereignty.

Let us now consider the respective positions of the citizen and the sovereign. The citizen has withdrawn from the state of nature by virtue of a contract establishing special obligations with other members of a society. It is essential that participants do not maintain or create special ties with outsiders such as to cause a tension between the obligations of citizenship and the obligations of humanity. Through involvement in a particular community the citizen is bound first and foremost by the obligations of membership. These take priority over claims on the individual which have their source outside the state. The private individual is obliged to share in advancing the interests of the separate community, an obligation which demands that international obligations become residual. He has no right to disobey the sovereign state on the grounds that it has ignored its fundamental international obligations. The sovereign state alone decides whether or not it can respect either the obligations it has created for itself or certain civilised standards of behaviour which states ought to respect. This is, however, an area which lies outside the scope of the individual's judgment. In exchange for membership of the state the individual recognises the priority of his obligations to the state and forsakes any particular claim for an international personality. His fundamental obligations are those which arise from having the status of a member.<sup>1</sup>

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1. One particular formulation of the internal point of view (although substantially within this tradition) does allow some scope for the expression of individual conscience. It may, for example, respect the pacifist conscience, or any international ideal which creates obligations for the individual at odds with those which stem from membership. A society which holds this formulation is necessarily more liberal-individualist than the one discussed above since it allows the individual some scope to  
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Let us now consider the obligations which define the role of the sovereign. The general nature of these obligations is defined by the following principle. The individual members of a community take part in it in order that their welfare may be more secure. The community has the right of advancing its interests and indeed possesses a number of rights to enable it to advance its ends. But these rights are essentially the rights of the sovereign body which is entrusted through the contract with the responsibility of acting in the interests of the separate community. The sovereign is a trustee who is under a specific obligation to enact his role in the community interest. His role as sovereign denies him the right of taking decisions which are hazardous to the state as a self-contained political entity. He must recognise that certain choices cannot be made without crossing the boundaries established by the internal point of view. According to the present interpretation of the internal point of view he is not, however, entitled to pursue the interests of his state mercilessly. He is not entrusted with the role of acting in ways which are as detrimental as possible to the interests of other communities. But he is obliged first and foremost by the obligations of his role as trustee for a particular community, and it follows that he may have to impose high costs on outsiders if he is to serve his state well.

To illustrate the sharp difference between the morality of

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enact his international ideals. This type of society raises some interesting questions which cannot be gone into here. It is arguable that a society can grant the individual only the privilege of behaving this way and not the right. Were it to give him the right to disobey the state on his account of his international obligations or ideals it would be taking some steps in the direction of the external point of view. To recognise the individual right of disobeying the state is to recognise the existence of certain moral standards which override the obligations of citizenship.

private persons and the morality of sovereigns let us consider the case of a society which has conceded the liberty of some individuals to have their pacifism respected.<sup>1</sup> This society allows the individual to choose a course of pacifism which will receive the recognition of the community as a whole. However, a society which adopts the internal point of view can never allow the sovereign to adopt a pacifist outlook while a trustee for the community. No individual can be allowed to commit the state to pacifism even though he may be allowed to choose pacifism as an individual ethic. The sovereign is necessarily under what Weber called 'an ethic of responsibility' and it is certain that his responsibilities are owed not to his conscience but to those who have entrusted him with the office of sovereign.<sup>2</sup> Any individual who thinks otherwise had better, according to the internal point of view, turn his back on politics as there is no place there for a man unprepared to make 'sacrifices of value' in order to preserve or enhance the security or well-being of the separate community.<sup>3</sup> It is clear then that irrespective of the scope society gives to the individual it must specify exactly the nature of the obligations which are attached to the role of sovereign.

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1. This particular issue is of course at the heart of arguments about the two standards of morality - the morality of the private person and the morality of the statesman. It is not crucial to the internal point of view as such, but only to that formulation which has conceded that the individual's choice of pacifism should have the respect of the community. Since only particular societies admit this claim it is an issue which arises only within particular cultural contexts where the individual is free to make a choice which is radically at odds with his community. It is a problem then for a society which wishes to articulate some version of the internal point of view within a culture which has a strong individualistic current and where certain individuals may choose a morality which sets them at odds with the state.
  2. Max Weber, "Politics as a Vocation", *From Max Weber*, (ed. H.H. Gerth and C.W. Mills), London 1948, esp. pp. 118-128.
  3. A. Wolfers, "Statesmanship and Moral Choice", *Discord and Collaboration*, *op.cit.*, p.58.

The Co-operation of the States

Let us now turn to our main formulation of the internal point of view and its bearing upon actual relations between states. I have maintained that this formulation is compatible with the existence of a diplomatic society. The state which adopts this point of view is egocentric but it does not necessarily exclude the possibility of diplomatic arrangements with other societies whereby rules are articulated for the regulation of their relations. It is necessary however that the state takes the view that it will not tolerate the existence of those rules which are detrimental to its own interests. What this means then is that the state will take upon itself certain obligations through creating rules which establish an order in the state-system. The state can co-operate with others for the articulation of rules which enable it to pursue its interests within a stable environment. It is not inconceivable that one state may make concessions to the interests of others in order to arrive at a condition of international stability. Obligations will be created through diplomatic procedures. There is no incompatibility between this version of the internal point of view and the establishment of international obligations through the free consent of separate states. In this way a number of states, each possessing an internal point of view, can co-exist within a diplomatic society.<sup>1</sup>

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1. It should be recalled that the internal point of view under discussion is not deliberately hostile to the interests of other societies, and that some level of co-operation is possible between them as a result. Arnold Wolfers used the term 'milieu goal' to refer to the fact that separate states 'find themselves sharing common interests' such as improving their environment 'by making it more peaceful or more conducive to social or economic progress'. *Discord and Collaboration, op.cit.*, pp.74-77. The formulation of the internal point of view under discussion is clearly capable of promoting these 'milieu' goals.

Nevertheless the level of international co-operation is limited by the concept of obligation contained within the internal point of view. Individuals simply co-operate with each other in order to improve upon the condition in which they find themselves in the state of nature. There is no need and no obligation to co-operate with all men - simply with a sufficient number to facilitate the attainment of individual ends. Similarly there is no obligation for one state to co-operate with another. Co-operation will only take place to the extent that it satisfies a calculation. Moreover the obligations which a state may incur through co-operation with others, say by the establishment of rules, can never bind the state against its will. Although the state may accept certain obligations it will deny any challenge to its right to decide whether or not to recognise or honour them. In this way any act or scheme of co-operation is necessarily limited by another right crucial to the state as an independent entity - the right to decide for itself.

There are however two ways whereby states, each adopting an internal point of view, can co-operate without fundamentally infringing the system of obligation which binds citizen and sovereign together into a separate and exclusive community. In the first place one state may co-operate with others in order to directly derive some advantage for itself. An act of co-operation will therefore be judged in terms of its usefulness to the separate state and there will be an unwillingness to continue co-operation should it become unfruitful to do so. To maintain co-operation or to continue obedience of international law when this is no longer profitable is contrary to the idea of a political association which seeks to be independent and self-contained. Because of this the burden of proof always rests with the argument

for international co-operation. The state has to be convinced that co-operation will prove to its advantage and therefore recognises no need to co-operate without this assurance.

On the face of it any successful attempt at international co-operation within a diplomatic society would have to satisfy the interests of all not only at the time of its establishment but throughout its existence. There is however a second reason why a state may co-operate with others, a reason which facilitates co-operation in a diplomatic society. It may co-operate with another in order to preserve some 'good faith' so that an immediate and identifiable disadvantage may later be balanced by some, presently unspecified, advantage. In this context the preservation of a particular milieu, one with good faith, is essential for the attainment of likely future objectives. Here too some calculation has been made and the conclusion has been reached that co-operation will later produce particular advantages. However, it is not necessary within a diplomatic society that each state should fully maximise its interests there and then before it will engage in any acts of co-operation.

It is important to add at this stage that the second of the arguments for co-operation does not stem from a moral point of view (from the type which underlies the external point of view). The state 'has not yet learned to take the role of the other', but judges its actions, even where these are to the advantage of another, in terms of the eventual gains it will derive from co-operation. Although one state may co-operate with another (perhaps to soften the blow of some foreign policy action), it does so only under the expectation of some future benefit. It would be contrary to the internal point of view to acknowledge an unconditional obligation to assist another, just

as it would be contrary to its directives to grant that the pacifist had a right, as opposed to a privilege or liberty, to behave as he did. Co-operation takes place within the contractual framework. Individuals co-operate to derive advantages which would not fall to them in the state of nature. Similarly states co-operate to derive particular advantages, but, unlike the co-operation of individuals, theirs is merely ad hoc and ancillary, the main advantages having been derived from the social contract which establishes the state. For a community to step outside this framework, and engage in co-operation purely for the sake of assisting another society, would be to adopt an external point of view. And this in turn would require that it have adopted the view that there is at least in principle a morality which embraces the whole of mankind.

CHAPTER THREEThe Internal and External Points of View  
of Obligation in the Theory of  
International Relations.PART TWO

'The most decisive change in political thinking ... which came some time between the days of Aristotle and Cicero, and proclaimed the fundamental equality of men.'  
(A.J. Carlyle)

According to the internal point of view world society is to be understood as a diplomatic society or state-system. The fundamental unit in world society is the state, and the emphasis upon the rights of the state is a reflection of the view that the state is regarded as the highest political association. Obligations to outsiders and respect for the international ideals of the individual are respected only at the state's discretion. The state then is the fundamental focus of obligation and source of action.

With the external point of view it is quite different. It understands world society as an international society, a society constituted by individuals bound together in one system of moral rights and obligations. It holds this underlying unity is more fundamental than the division of mankind into separate sovereign states, or at an earlier stage of history, more fundamental than the division into Greek city states, or even earlier, more fundamental than the division of men into separate tribal groups. Obligations at the international level take priority over the obligations of membership. According

to the external point of view, progress takes place when the underlying moral unity of mankind breaks through the allegedly arbitrary distinctions which underpin social differences or political separateness. For Saint-Simon

'The most salient fact observable in history is the continual extension of the principle of association, in the series of family, city, nation, supernatural Church. The next term must be a still vaster association comprehending the whole race.' <sup>1</sup>

In this way one can classify historical periods according to the degree to which they approach or recede from the realisation of the allegedly more fundamental moral unity of the human race.

For a theorist of the external point of view the state is not the fundamental unit in world society. As a matter of observable fact it may be the fundamental source of obligation and the main initiator of action, but at a moral and philosophical level the more profound fact is the capacity of men (whether realised or not) to take part in more extensive schemes of co-operation and unification. The objective then is a condition where the obligations of membership in separate states are amended or superseded entirely by international co-operation and institutions which express the moral unity of mankind. The external point of view will be most perfectly expressed when new associations corresponding to more fundamental obligations become the major units in an international society.

The external point of view too is capable of a variety of formulations. While the main differences between formulations of the internal point of view are concerned with the degree to which international co-operation is possible and the international ideals of the

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1. Quoted by J.B. Bury, *The Idea of Progress*, New York 1932, p.287.

individual respected, the main formulations of the external point of view are concerned with the extent to which lesser associations such as the state are held to be capable of incorporation within a more embracing international society. To explain this further let us consider the following remarks. According to Baron d'Holbach:

'True morality should be the same for all the inhabitants of the globe. The savage man and the civilised; the white man, the red man, the black man; Indian and European, Chinaman and Frenchman, Negro and Lapp have the same nature. The differences between them are only modifications of the common nature produced by climate, government, education, opinions, and the various causes which operate on them. Men differ only in the ideas they form of happiness and the means which they have imagined to obtain it.'<sup>1</sup>

But the view that social differences are wholly arbitrary, that they can be adjusted through changing the nature of the environment which operates on man, lends force to the idea that previous social institutions and practices should be superseded entirely. According to this view there is no reason why societies should maintain their traditions and distinctiveness while taking their place in a more inclusive form of human association.<sup>2</sup> This is not however the articulation of the external point of view that will be discussed in this section. Of the many which could be selected I shall focus particularly on that one which aims at the inclusion of the state within some broader international community constituted on moral principles:

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1. *ibid.*, pp.166-167.

2. "D'Alembert said that it would be well if history could be destroyed." *ibid.*, p.171. Of the Enlightenment one recent author has said: 'Given the view of a common, intuitable human nature, Enlightenment politics can give no satisfactory account for the plurality of states. How can it be that, given this universality of human nature, man has divided himself into all these separated polities? The basic answer is 'irrationalism' - loyalty to dynasties, outmoded religions, foolish customs. In the final end of history, when man realises his universality, there will be a universal state.' G.D. O'Brien, *Hegel on Reason and History*, Chicago 1975, p.113.

The fundamental aspect here is the focus upon particular international obligations which tie the individual to an international community. The individual may have a series of loyalties including his loyalties to the family and the state, but he is at the same time a member of an international society and his state is merely one of the associations included within it. The state is not permitted to conduct itself in ways which violate international morality, or to demand of the individual that he perform acts which contravene the obligations of his membership in a universal society. Let us now consider the ways in which this concept of international obligation leads to a particular account of the rights of the state, the morality of private persons and statesmen, and the theory of international co-operation.

#### The Rights of the State

The external point of view is so-called because it is concerned with the obligations which link the members of different communities together. It is not the perspective of any single community and it does not look at external relations from the vantage point of any community which is concerned simply with its own interests. To adopt the external point of view is to adopt a position of impartiality which attempts to take the welfare of all men into account irrespective of the societies to which they belong. As such, a defender of the external point of view is necessarily incapable of total identification with his community. In order to pass an unfavourable judgment upon his community in its relations with others, a man must to some extent stand outside his community. The consideration of the obligations which bind different communities together requires then personalities which are not totally identified with a separate community.

For this reason it is not surprising that most of the earliest writings which adopt an external point of view should belong to the Christian tradition. Earliest formulations were concerned principally with the justice of war and especially with placing constraints of a moral nature upon the right of the state to initiate and conduct war. However the ideas involved in these arguments were extended in the writings of Vitoria and Suarez in order to provide a more comprehensive account of an international society than had existed previously. Vitoria discusses a law for the whole world in the following terms:

'International law has not only the force of a pact and agreement among men, but also the force of a law; for the world as a whole, being in a way one single state, has the power to create laws that are just and fitting for all persons, as are the rules of international law. Consequently, it is clear that they who violate international rules, whether in peace or in war, commit a mortal sin; moreover, in the gravest of matters such as the inviolability of ambassadors, it is not permissible for one country to refuse to be bound by international law, the latter having been established by the whole world.' <sup>1</sup>

It is clear from this remark that there is no sovereignty of the state as understood within the terms of an internal point of view. The state can indeed be bound by the consent of the whole world, the *ius gentium*, and owe a moral responsibility to the rest of the world. These ideas find no greater expression than in Vitoria's attempt to extend the principles of Christendom to the newly discovered American Indians. Vitoria denied the distinction between one standard of treatment among the Christians and another standard for relations between Christendom, in particular the Spanish conquerors, and the American Indians. In

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1. *De Potestate Civile* in J.B. Scott, *The Spanish Origins of International Law: Francisco de Vitoria and his Law of Nations*, Oxford 1934, Appendix C, p. xc.

this way Vitoria contended that the principles of Christian morality should apply to relations with non-believers.<sup>1</sup> And this I understand to be an extension of moral community made possible by the adoption of an external point of view.

For Vitoria the whole world is a moral unity with a common good which may override the particular good of any one state. This is given clear expression in his remarks on the reasonable use of force:

'Since one nation is a part of the whole world, and since the Christian province is a part of the whole Christian state, if any war should be advantageous to one province or nation but injurious to the world, or to Christendom ... for this very reason, that war is unjust.'<sup>2</sup>

Vitoria, then, regards communities as obliged to consider the welfare of each other and to avoid courses of action which are harmful to each other's welfare. Because of this obligation, the state can have no sovereign rights to act against the welfare of others - rights which are entrenched in the internal point of view by contrast. However, the argument for the supremacy of an international society is not complemented by an argument for international institutions to preserve the common good of the whole world and to balance that good with the ends of particular communities. Suarez puts forward the following account:

'just as within the state some lawful power to punish crimes is necessary to the preservation of domestic peace; so, in the world as a whole, there must exist, in order that the

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1. *De Indiis*, in Scott, *ibid.* See also B. Hamilton, *Political Thought in Sixteenth Century Spain*, Oxford 1963, ch.6.

2. *De Potestate Civile*, *op.cit.*, p. lxxxii.

various states may dwell in accord, some power for the punishment of injuries inflicted by one state upon another; and this power is not to be found in any superior, for we assume that these states have no commonly acknowledged superior; therefore, the power in question must reside in the sovereign power of the injured state, to whom, by reason of that injury the opposing prince is made subject; and consequently war of the kind in question has been instituted in place of a tribunal administering just punishment.' <sup>1</sup>

Suarez maintains that the movement towards international institutions is 'hardly possible', <sup>2</sup> but at the same time he recognises that the existence of the condition where 'the same party in one and the same case is both plaintiff and judge' contains the danger that the avenger may 'exceed the bounds of justice'. <sup>3</sup> Nevertheless, it can be said that there is in the writings of Vitoria and Suarez the philosophical basis for arguing that states should submit to a higher authority if favourable conditions present themselves. <sup>4</sup> In this way the imperfections of a world where the external point of view was administered by states would be avoided, and its moral unity would become more complete.

According to the external point of view the rights of the state, or of any separate community, have to be in conformity with a higher moral law. This view of politics is quite clearly expressed in Kant's writing:

'The problem of the establishment of a perfect civil constitution is dependent on the problem of the regulation of the external relations between states conformably to law; and without the solution of this problem it cannot be solved.'<sup>5</sup>

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1. *On Charity, Selections from Three Works*, (ed. J.B.Scott), Oxford 1944, p.818.
  2. *ibid.*, p.376.
  3. *ibid.*, p.819.
  4. See Midgley, *op.cit.*, pp. 92-93.
  5. *Idea for a Universal History from a Cosmopolitical Point of View*, in M.G.Forsyth, H.M.A. Keens-Soper and P. Savigear, *The Theory of International Relations*, London, 1970, p.183.

The universal law is supreme standing as it does above all political relations and providing the standards whereby these are judged. And the fact that men have moral entitlements, which no association can frustrate either in its internal organisation or external relations, becomes the judge of the content of any rights a separate political community might claim.

#### The Morality of the Private Person and the Sovereign

The challenge to the rights of the state is part of a larger concern with denying the absolute and inviolable autonomy of the state. And the denial of the absolute autonomy of any separate political community is equivalent to the assertion of a wider moral community which embraces all states. The members of a separate state do not have obligations to each other only. They have obligations to the whole of mankind. And the trustee of the separate community also has obligations to other communities and cannot claim that there is one morality for relations between insiders and another for relations between insiders and outsiders:

'Now what Plato and those expounders of the law say of private citizens we feel justified in applying to sovereigns and nations, since the rule which governs a private citizen in his own state ought to govern a public citizen, that is to say a sovereign or sovereign people, in this public and universal state formed by the world.'<sup>1</sup>

This necessarily places particular obligations upon the sovereign to attempt to establish an enlarged moral community at the international level. As the external point of view denied that states have the right to be constituted as separate entities with absolute rights against each other, it follows that the sovereign should be especially concerned with his role as the cultivator of an enlarged moral community.

1. A. Gentili, *Three Books on the Law of War*, Oxford 1933, p.68.

This 'double function' is concerned with just relations within as well as between states.<sup>1</sup>

Certainly the external point of view believes that the internal point of view is mistaken in thinking that the most important moral problems arise within rather than between states, and that international relations are to be regarded as creating problems only of a technical or pragmatic order. On the contrary the former asserts that all politics are of moral importance, as a violation of right anywhere in the world cannot be an isolated affair but plays its part in making a civil society for the whole of mankind more or less possible. The statesman is not at liberty to concentrate exclusively on his role of promoting the interests of his community while taking account of the international milieu only insofar as it directly or indirectly affects these interests. He is not at liberty in other words to apply one standard of morality within the state while applying another in relations between states. Similarly, the individual, although a member of a particular community owing special obligations to it, has international obligations which grant him the reasonable right of disobeying the state when in conducting its external relations it asserts itself as an independent or autonomous unit without responsibilities to an international society. This challenge to the moral autonomy of the state depends upon the denial of one standard of morality for 'domestic politics' while another standard is said to apply to international relations.

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1. This concept is employed by M.S. McDougal, H.D. Lasswell and I.A. Vlaschi, *Law and Public Order in Space*, Yale, 1963, p.97.

The Co-operation of States

Let us now consider the relationship between the theory of international co-operation and the external point of view. States are denied the right to separate themselves from the rest of mankind or to consider that they have inherent, unchanging and inviolable rights against each other. The focus is upon the wider international community and there is a concern to avoid the individualistic view of the rights of the state, a view which is most manifest in an internal point of view resting upon an ascending theory of government. Now it is more difficult to find systematic versions of the external point of view than versions of the internal point of view, a point noted by Ginsberg when he writes of:

'a lag in applying to the relations between states many of the criticisms which, in the course of the nineteenth century, were effectively directed against individualism in its bearing upon the internal economy of states.'<sup>1</sup>

The individualism inherent in the internal point of view makes it clear that states are not obliged to seek an enlarged moral and legal community even though circumstances would make such enlargements possible. The rights of the state preclude any obligation to establish a legal system for the whole of mankind. However, as the external point of view denied the validity of such rights it follows that it is prepared to give a different account of co-operation, one which rests not on any calculation upon its effects upon state interests, but based upon fundamental moral obligations.

Kant and sometimes Fichte put forward the idea that a state

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1. M. Ginsberg, "The Persistence of Individualism in the Theory of International Relations" in R. Fletcher, *The Science of Society and the Unity of Mankind*, London 1974, p.167.

which did not allow for any movement towards an international legal system would be intolerable. Fichte in direct opposition to the individualistic theories I shall consider later maintained:

'A small state of two or three persons, therefore, would be in contradiction with the concept of right. There is not perfect security - and perfect security that concept demands - possible in it. Nor is any such security possible in any absolutely limited state. A commonwealth which is to afford perfect security must embrace the whole globe, or at least, in order to be conformable to the concept of rights, must contain the possibility of uniting the whole of mankind.'<sup>1</sup>

According to this view, the establishment of a limited political system founded on the idea of rights can only be the beginning of a process which would culminate ideally in a moral and legal system which embraced the whole of mankind. It would appear then that the best state was one in which members' human rights were respected. A state constituted on the principle of defending rights would be better prepared to be included within an international society. This kind of state is not established on the basis of improving the interests of members alone. It is established on the basis of seeking to ground the relations among men on principles of morality. Its limitation to a particular territorial area is a contingent element in its character, and not a natural and necessary part as in the theory of the state founded upon the internal point of view. When circumstances alter and it becomes possible to extend these principles over greater areas the state can be included within a wider association which preserves the rights of a greater number of men. While the internal point of view regards the territorial state as a fundamental right

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1. J. Fichte, *The Science of Rights* (translated by A.E. Kroeger), Philadelphia 1869, p.215. Compare Pufendorf, below pp.129-130.

belonging to those who wish to pursue their interests together, the external point of view regards it as only a temporary association existing as it does only because it is impossible to secure the protection of rights over a greater area. Should circumstances alter then the state would be obliged to apply the principles of justice in a more inclusive manner.

The external point of view rests upon a moral philosophy which points to the need to protect the rights of men. It is argued that states should co-operate, or attempt to make co-operation with outsiders possible, so that the protection of these rights will be secured at the international level. Co-operation, or the attempt to bring it about, is an obligation since no man can reasonably place his rights at the disposal of others or reasonably expect to override the rights of other men. International co-operation is desirable then because it is fair that equals should have their rights respected by each other.

According to this perspective, international co-operation ought not to be subject to a calculation whereby more or less egotistical states decide how to satisfy their interests. The burden of proof does not rest with arguments for co-operation. On the contrary there is an obligation to co-operate or to seek to fashion the conditions which are favourable to co-operation, and the burden of proof rests with the state which refuses to make an effort in either direction. This is particularly the case where states are causally connected, where their separate actions impinge on each other's interests, as there is a particular obligation to seek to conduct their interdependence on right principles. It is illegitimate then for the state to wish to place the advancement of its own interests before its obligations

to the rest of mankind. There is no justification for concluding the establishment of civil society at the domestic level while international relations are left ungoverned by law. Civil society ought to be entered by individuals and states alike, indeed all human associations, since the regulation of human relations by the moral law is the supreme obligation. What is required, according to this argument, is the recognition of the obligations which bind men as men, or the members of separate communities together, and which require the transition from a diplomatic to an international society.

The external point of view maintains that we ought to begin with obligations to humanity, with what each man owes to every other, and proceed to work down, as Gierke put it, to the kind of political association which would be compatible with an international society while limited to only one section of mankind.<sup>1</sup> Filmer is of interest to us here because he points to the fact that the establishment and management of a separate political society ought to be of concern to the whole world, if we hold the prior commitment that all men are moral equals.<sup>2</sup> And Kant too thought the obligation of establishing a civil society among the whole of mankind placed limitations upon man's freedom to establish a local or territorial political association.<sup>3</sup> These ideas are a challenge to one of the fundamental ideas of the internal point of view, namely that the state has a right to its

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1. Otto Gierke, *Natural Law and the Theory of Society 1500-1800*, Cambridge 1934. Gierke was concerned with tracing the historical evolution of an individualistic natural law which placed the state at the centre of social life and considered it as a mechanism for the promotion of individual objectives.

2. See above, pp. 17-18.

3. See below, ch. 8, especially pp. 205-209.

sovereignty, or that the only legitimate state is one that has been created by the consent of its citizens. For the opposing point of view the legitimacy of the state does not depend upon some antecedent decision whereby individuals transfer their power to the sovereign. The external point of view may admit that the legitimacy of a government is dependent upon the prior or continuing consent of citizens, as it may be linked to a democratic political philosophy. But it must insist that the legitimacy of the state as a separate political association depends upon its coherence with the emergence of an international society. It must conduct itself then according to criteria which will not jeopardise the possibility of its inclusion within a larger moral community. And here it differs fundamentally from the internal point of view. That perspective allowed the separate state to act in ways harmful to the interests of outsiders; indeed, in situations where the very independence of the state was threatened it would be its duty to preserve itself albeit at the sacrifice of the interests of others. While the internal point of view allows courses of action which are detrimental to the interests of outsiders, the external point of view requires courses of action which will eventually extend the boundaries of moral community so that they eventually include the whole of mankind. While the former permits only diplomatic society between communities, the latter requires the emergence of international society. These points of view therefore conceptualise quite different ways of experiencing moral obligations in a world of separate societies and states.

CHAPTER FOUR

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The Idea of Progress  
in the  
Internal and External Points of View

I

In an important essay on the relative immaturity of the theory of international relations, Martin Wight wrote:

'If St. Thomas More or Henry IV, let us say, were to return to England and France in 1960, it is not beyond plausibility that they would admit that their countries had moved domestically towards goals and along paths which they could approve. But if they contemplated the international scene, it is more likely that they would be struck by resemblances to what they remembered ... International politics is the realm of recurrence and repetition, it is the field in which political action is most regularly necessitous.'<sup>1</sup>

And of course the discontinuity between domestic and international politics is reflected in the different degrees of development of their respective political theories. Modern thought recognises that 'international politics differ from domestic politics in being less susceptible of a progressivist interpretation'.<sup>2</sup> Nevertheless there are differences within the theory of international relations on the idea of progress, and it is possible to focus primarily upon two contrasting approaches which deserve attention in this thesis. In this section I shall be concerned with discussing these two ideas of progress as inherent characteristics of the internal and external points of view.

As the internal point of view is a defence of the separate state it is natural that it should be concerned with progress within

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1. Wight, *op.cit.*, p.26.

2. *ibid.*

the state. Insofar as the internal point of view has a concept of progress it is, as we have seen, of very limited horizons. Progress at the international level can be no more than the move towards the establishment of an international order which will be most advantageous to the welfare of the separate, sovereign state.<sup>1</sup> It is incompatible with the internal point of view that its theorists should be drawn towards enlarging its political theory by exploring another type of international order, one which expresses and institutionalises important obligations to humanity. Progress might be understood as the improvement of international order so that the separate state may more readily achieve its ambitions; progress is not understood in terms of the movement of the state-system towards an enlarged moral community or international society.

Now it is arguable that the absence of a developed tradition of international relations theory is explicable in terms of the virtually unchallenged supremacy of the internal point of view. Conversely political thought's concentration upon the sovereign state (the fact that it has 'not been attracted by the possibility of maximising the field of political theory through establishing a world state')<sup>2</sup> is explicable given its existence within a culture which is marked by acceptance of the internal point of view. Those political theories which implicitly or explicitly assert the priority of the separate, sovereign state simply recreate at the level of philosophy ideas normally taken

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1. Since there are as many internal points of view as there are separate states the possibility of agreement on the best type of international order is rather remote - and indeed the fact that the internal point of view is compatible with a wide range of political ideologies further complicates matters.

2. *ibid.*, p.32.

for granted by ordinary citizens and deeply embedded in the tradition of Western statecraft.

To clarify this let it be said that the holder of the internal or external viewpoints does not simply have a view of a world which is independent of him. A man may have a particular view of nature or some aspect of it, but whatever his viewpoint should be the object always remains independent of it. His viewpoint may change but the things he views do not. The internal and external points of view do not stand to some independent reality in this way. They refer not simply to the perspectives of an observer but to his 'social and cultural situation'.<sup>1</sup> Accordingly, to adopt the internal point of view is not to adopt a particular perspective of some independent object. And in changing from the internal to the external point of view one is not giving a different account of the same independent object.<sup>2</sup> One is rejecting or criticising the way in which one's culture structures the social world and embodies its perspective in particular institutions. Therefore to reject the internal point of view is to reject the fact that the distinction between insiders and outsiders is fundamental to the way in which the social world is to be structured, and it is also to reject the way in which this distinction is embodied in the exclusive nature of the separate state. The rejection of the internal point of view also entails criticism of those political theories which presuppose the validity of this form of structuring the social world. To reject the internal point of view would also be to reject predominantly state-centred political philosophy which is too

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1. This phrase and the ideas immediately preceding it are considered in J.P. Flamentaz's *Karl Marx's Philosophy of Man*, Oxford 1975, p. 74.
  2. One could say that the type of viewpoint I am discussing produces the world that it knows, a Hegelian idiom discussed by Flamentaz, *ibid.*, p.78.

dependent on underlying cultural assumptions. It is arguable then that it is the impact of the internal point of view that accounts for the absence of a developed tradition of international relations theory. It has produced instead in the predominant ideas of Western political thought an argument for the separate and exclusive political association.

The dominance of the internal point of view has prevented the development of a yardstick by which to measure progress at the international level. The lack of a concern with the articulation of a progressivist view of international politics depends not so much upon the view that it is empirically impossible to reach an enlarged moral community as upon the view that it is more desirable that men attempt to cultivate morality and humanity within the separate community. If it were merely supposed empirical impossibility which explained the failure to reason about international relations and associations then the move towards an enlarged moral community would appear only unlikely and not undesirable. While a large number of modern writers are concerned with the conditions which have to be satisfied before an international community can emerge, a great number of writers have been content to say that the nature of diplomatic society was not conducive to the enactment of moral principles. But the lack of any consideration about the conditions to be satisfied before the state-system as we know it might be superseded reflects more than a pessimism about the possibility of progress in international relations. The absence of writings with this objective, at least until comparatively recently, reflects in large part a satisfaction with the sovereign state and the formulation of the internal point of view which underlies it.

According to the internal point of view, the state-system is a

'climax' rather than a 'dominant'.<sup>1</sup> The state is not merely the dominant association which men have so far formed as they have gradually enlarged their communities in the course of their history; it is the climax of their powers of associating. There is as a consequence no need to consider ways in which the state might be included within a larger association, just as the family and other modes of association have been accommodated and integrated within it. The state stands at the end of a chain of associations and is not to be superseded by any larger political association.

The fact the state-system is a climax is reflected in the morality of roles within the sovereign state. As we shall see in our discussion of Pufendorf and Vattel, representative thinkers of the internal point of view, the individual is obliged to consider the common good of his state first and foremost while the sovereign is under a binding obligation to act as trustee for the welfare of his community. What is more the morality of roles as understood by these theorists is frozen. There is nothing to suggest that these roles may be amended in order to move beyond the state-system to an international society with its own structure of obligations and rules. The description of obligation in these terms provides a seal to the separate state. It not only indicates that it is a climax; it prevents it from being anything other than a climax, which in turn removes the possibility of thinking philosophically about progress at the international level. The internal point of view provides an account of roles and morality which freezes the separate state and makes the discussion of progress possible only in internal terms.

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1. These concepts are used by L. Mumford, *The Transformation of Man*, London 1957, p.14.

## II

According to the external point of view the existence of obligations to humanity requires that progress be identified not only as improvement within states but as progress in the relations between them. Progress within the state is desirable, indeed, but is simply one stage which ought to be accompanied by the attempt to expand the area of moral community. The external point of view defines progress in terms of the extended application of principles of morality. The attempt to perfect 'humanity' within the state is regarded as desirable in itself, but it is also regarded as desirable since a state constituted by such moral principles will be more able to take its place within a civil society for the whole of mankind. And this can only be accomplished when the state recognises a particular set of rights - the right of the individual to have an 'international personality', the right of the citizen to disobey the state should it infringe particular international obligations, and finally by defining and increasing the area of rights attached to outsiders. A state with this character is capable of considering progress as the continual enlargement of international community, a progress which requires an increasingly morally and politically unified humanity.

Accordingly, the state-system is a 'dominant' rather than a 'climax', and its supercession requires a reconsideration of the obligations which bind a man to his separate political association while separating him from the rest of mankind. This point of view clearly denies that the state-system cannot be transformed. The adoption of this latter idea would, so it would be argued, constitute a denial of human freedom, especially the freedom of men to order their affairs

in accordance with rational principles which enable them to rise above the particular interest and sentiments which tie men to their separate political communities. The external point of view has to acknowledge however that the state-system is a 'dominant' although it may not be a 'climax'. Accordingly, it has to consider not only alternative concepts of obligation but the manner in which these concepts are to be brought to bear upon the particular situations in which states find themselves. It has to recognise, in other words, that the agents of change or the initiators of an enlarged community are the governments of those associations which, presently constituted, appear to make this change impossible or unlikely. It is important that the adherent to the external point of view should not only specify what would count as structural improvement in the organisation of world society. He is obliged too to relate his principles to the more particular situations in which states find themselves in order to indicate in some detail what would count as a progressive management of the state-system. It is important to relate the external point of view to the actual relations between states, it being recognised that any enlarged community at the international level must develop gradually through the activities of states themselves, through the development of trust and the greater experience of adopting each other's perspectives.

With this in mind it is understandable that Kant should have thought that the problem of 'lawful, external relationships' would be the most difficult and the last to be solved by the human race.<sup>1</sup> This is undoubtedly so because the idea of a moral law which is

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1. Kant in H. Reiss (ed.), *Kant's Political Writings*, Cambridge 1971, p.46.

universally applicable - and the concept of equality underlying it - develops only in the course of a considerable amount of social development and moral sophistication. Moreover, it has in the course of history developed within separate societies where there have been major injustices and inequalities which the concept of moral equality has been summoned to contest. It is understandable that the application of the principles it involves should be restricted to relationships within particular societies. It requires, as Mumford puts it, an imaginative leap - 'a larger conception, a new territory of the mind'<sup>1</sup> - to regard the moral law as a basis for the transformation of man's division into separate political associations which recognise only residual obligations to one another. Progress consists then in the emergence of wider communities made possible by the recognition of a principle of equality and the recognition of a universal morality:

'It opened up the possibility of progress, novelty, emergence, unexpected creativity. Evolution thus created a new kind of hierarchy, continually shifting in place and power, based not on past stratifications but on future emergents.'<sup>2</sup>

The main objective becomes the gradual extension of rights and duties, once the property of privileged groups, not only to the whole of society but to the 'members of a universal society'.<sup>3</sup> And in time states are charged with gradually bringing this ideal to fruition through the establishment of a universal civil society with the state playing the role of one of man's associations, though clearly not the central and highest one. In a similar way the Aristotelian must have imagined

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1. Mumford, *op.cit.*, p.95.

2. *ibid.*, p.112.

3. *ibid.*, p.156.

families readjusting their responsibilities and obligations in order to be integrated at a higher level, namely the village; and villages in turn reconsidering their place in the realm of human associations in order to be integrated in a more perfect association, the polis. The theorist of the external point of view adds progress at the international level, the final step in the process of associating, where men integrate their separate political associations in a universal community and so reach an association where their equality is most decisively expressed.

### III

The internal and the external points of view take, so it has been argued, opposing positions on the meaning of progress. There is however despite their apparent compatibility and mutual exclusion an area of overlap between one formulation of the internal point of view and the external point of view. When it is said there is some overlap this refers simply to that theory of the internal point of view which gives an account of the modern state in contractual terms. There is then an overlap between this formulation of the internal point of view, represented particularly in the writings of Pufendorf and Vattel, and the external point of view. And this overlap has, I believe, one important implication for the theory of international relations.

The individualistic approach to the internal point of view (which will be considered in much greater detail later) begins with a discussion of man in the state of nature, or in a pre-political condition. It is argued that the individual is capable of recognising a rational morality and that he can apply this to the conduct of his relations in the state of nature and in future political society. It

is also argued that men are equal - equal simply as men - and that the establishment of political society is impossible without consent.

Now it is undeniable that Pufendorf and Vattel were abstracting a concept of man from a specific social condition. They did not begin with the assumption that individuals could once be found in a solitary condition. And presumably they would have admitted, if pressed, that there was a historical process leading up to or preceding the nature of the man they proposed to employ in their philosophical reasoning.<sup>1</sup> The idea of men as equal and capable of recognising a rational morality is after all not the original condition of man, as far as we are aware. It came to be articulated and held fundamental after a considerable amount of social and political development, and received its first philosophical expression in Stoicism.<sup>2</sup> Pufendorf and Vattel simply overlooked the historical background of the ideas they proposed to use. These ideas became a starting point and they clearly discounted at least for the purpose at hand the historical setting in which these ideas had appeared.

Kant in his *Critique of Pure Reason* refers to the need to move from the 'conditioned to the unconditioned', that is to extract from anything its presuppositions, and to find the presuppositions of the presuppositions until one is left with a set of propositions which

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1. Pufendorf was perfectly explicit about this; see below pp.125-126.
  2. If this paragraph is correct Vico's attack on Pufendorf in the *New Science* is misdirected. Vico criticised Pufendorf for portraying pre-social, primitive man as a being capable of appreciating moral equality. It was wrong to suggest that 'natural equity in its perfect form had been understood by the gentile nations from their first beginnings' since 'it took two thousand years for philosophers to appear in any of them'. *The New Science of Giambattista Vico* (translated and introduced by T.G. Bergin and M.H. Fisch), Cornell 1970, p.51.

require no further explanation. In that event the starting point of Pufendorf's or Vattel's theory cannot simply be taken for granted. Their starting point evidently has its presuppositions - it presupposes that the ideas which developed into Stoicism in the course of a historical development are substantially correct - and we can reasonably be concerned with the development of these ideas in their historical and cultural context in order to pose some questions which would not have been considered vital in Pufendorf's time but have since become so particularly through the influence of philosophies of history in the eighteenth and nineteenth centuries. There is, I shall try to show, an agreement between one formulation of the internal point of view and one formulation of the external point of view (in particular between the theory of Pufendorf and the theory of Kant). Where they differ substantially is over the question of what is to be made of the theme on which they substantially agree, this theme being the moral equality of men which was first put forward by the Stoic philosophers. Pufendorf understands Stoic equality as the starting point of his theory and proposes to employ it in his argument for the state without going into its historical background and development. Kant, on the other hand, sees the development of the idea of moral equality as part of a grand historical process which will culminate in the organisation of mankind according to rational, moral principles. To illustrate their difference and its importance for the development of international relations theory, let us consider the development of moral ideas prior to the development of Stoic philosophy.

## IV

The method of dealing with the opposition between the internal and external points of view depends upon our understanding of the ways in which they come into conflict with one another. By looking at the development of some early ethical ideas - particularly in Ancient Greece - we can discuss some important points which will be built upon in the third part of this thesis.

Let us begin, however, by considering the fact that anthropological writings on 'primitive war' have established a general tendency among early societies to be antagonistic towards one another. The author of an early work on this subject wrote:

'There are two codes of morals, two sets of morals, one for comrades inside and another for strangers outside, and both arise from the same interests. Against outsiders it is meritorious to kill, plunder, practise blood revenge, and steal women and slaves, but inside the group none of these things can be allowed because they would produce discord and weakness.' <sup>1</sup>

That is to say, group morality is exclusive since there is at that stage no conception of a morality which might embrace both insiders and outsiders alike. There is a double standard of morality embedded in the cultural perspective - one standard pertaining to relationships between members of the community while another standard (or no standard at all) applies to the relations between insiders and outsiders. It would be erroneous to portray all simpler societies in this light. Many are far from as bellicose as this suggests, others recognise various restraints in their relations with strangers, but a considerable amount of evidence substantiates the claim that simpler societies,

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1. M.R. Davie, *The Evolution of War - A Study of its Role in Early Societies*, New Haven 1929, p.18.

based as they are on kinship, are exclusive and devoid of the perspective which I have entitled the external point of view.<sup>1</sup> The internal point of view based on the kinship bond is supreme and takes preference before or disallows any more inclusive loyalties. An individual is treated at this stage according to his membership or generic qualities. What one is, the group one belongs to - these determine the way in which one is treated. And this is fundamental in simpler societies. As Hobhouse puts it:

'In the early stages of ethics, rights and duties do not attach to a human being as such. They attach to him as a member of a group ... Morality is in its origin group morality. This division between the community and the stranger cuts deep into the ethical consciousness.'<sup>2</sup>

The distinctions between groups according to their respective kinship bonds engulf the individual. It is his membership before all else which will determine how he is treated.

Leaving aside the more exclusive type of 'primitive' internal point of view, but still considering societies where the kinship bond is primary it is interesting to recall the reforms of Cleisthenes. Prior to his reforms the prevailing social ties were based upon kinship connections and each Athenian belonged to one or other of the four main tribes. Cleisthenes' reforms included the replacement of the four ancient tribes with ten new 'tribes' (which were not related to common descent, however), the formation of small townships (called demes), and the dispersal of the various demes which formed one tribe so that no alliance could form 'based upon mere contiguity'.<sup>3</sup> Nisbet

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1. For a fuller account see H.H. Turney-High, *Primitive War: Its Practice and Concepts*, University of South Carolina, 1971.
  2. L.T. Hobhouse, *The Evolution of Morals*, London 1925, p.233.
  3. Cleisthenes' reforms are discussed by R. Nisbet, *The Social Philosophers*, St. Albans 1976, pp. 38-44.

describes these reforms in the following words:

'Instead of the traditional, kin-based pluralism of Athenian authority, there is now a monolithic unity that arises from a governmental system reaching directly down to the individual citizen. Instead of a system of law based upon immemorial tradition, its interpretation subject to the elders of kinship society and always slow and uncertain, we have now a system of Athenian law that is prescriptive, that is made, rather than merely interpreted out of tradition, and that is deemed binding upon all Athenians irrespective of kinship lineage.' <sup>1</sup>

Although there is a break with the kinship system here, the Athenian polis in common with other city-states developed its own internal point of view. We are familiar with this at two levels of Greek political life - first of all, among the city-states themselves and in the relations between the Greeks and barbarians. The polis, based though it was on the extension of community, was incapable itself of being included within a larger political association.

Thucydides says of the Spartans:

'The Spartans behave habitually towards non-Spartans as the Athenians behaved among themselves during the worst time of the plague.' <sup>2</sup>

And Thucydides' discussion of the Melian dialogue indicates the attraction of the principle 'might is right' to the Athenians themselves.<sup>3</sup> Of course, the city-state thought the highest morality was exhibited by the good citizen performing his allotted social function - a concept which Plato builds into his definition of justice. Aristotle too regarded goodness very much in terms of civic virtue. Nevertheless

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1. *ibid.*, p.42.

2. Quoted by L. Strauss, *The City and Man*, Chicago 1964, p.188.

3. Thucydides, *The Peloponnesian War* (translated by R. Warner), London 1972, pp. 400-408.

within the writings of Plato and Aristotle the idea of a morality between Greeks does become apparent. Plato has Socrates say:

'Then when Greeks and barbarians fight, we shall say that they are natural enemies, warring against one another, and this enmity is to be called war; but, when Greeks fight with Greeks, we shall declare that naturally they are friends, and that when anything of this kind occurs, Greece is sick and affected by sedition, and this kind of enmity is to be called sedition.'<sup>1</sup>

Socrates maintains then that 'a difference with Greeks is to be a difference with kinsmen'.<sup>2</sup> Aristotle similarly has a view of morality which would specify what is to count as honourable or dishonourable conduct in international relations:

'Yet it cannot, perhaps, but appear very strange, to a mind which is ready to reflect, that a statesman should be expected to lay his plans for ruling and dominating border states without any regard for their feelings. How can a thing which is not even lawful be proper for a statesman or lawmaker? And how can it ever be lawful to rule without regard to the right or wrong of what you are doing?'<sup>3</sup>

There was then a view that Greeks simply as Greeks ought to respect certain standards in their relations with each other, and this was most evident in the view that it was wrong to subject another Greek to the indignity of slavery. But although there was some loyalty to the common stock as well as the polis, the former was never powerful enough to provide a basis for the complete transformation of Greek political life. Phillipson wrote:

'The Greeks as Greeks cherished aspirations for unity, but as citizens their constant

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1. Plato, *The Republic*, (translated by A.D.Lindsay), London 1920, p.184.
  2. *ibid.*, p.185.
  3. Aristotle, *The Politics* (ed. E. Barker), Oxford 1948, p.334.

aim was decentralisation; and the claims of citizenship invariably triumphed over those of kinship.' <sup>1</sup>

This dualism, such as it was, was resolved in favour of the particular and conflicting rather than the shared and potentially unifying.

Undoubtedly, the views that the polis was the highest possible association and that citizenship was the most prized of possessions account for the Greek's inability to establish long-lasting international bodies or seriously reconsider their division into separate city-states. These views account for the poverty of international relations theory in the ancient world just as the primacy of the sovereign state hinders the development of this kind of theory in the modern world. What would appear to be necessary not only to an increased sensitivity to the 'international' and to its theoretical discussion is the development of the idea of shared human identity. With the development of this idea of human nature and with the view that a man simply as a man has certain rights attached to him, the exclusiveness of group morality must fade of necessity. Albericus Gentili, the seventeenth century international lawyer, indicated that the exclusiveness of group morality had to take account of the essential unity of man. Gentili quoted Philip of Macedon's belief that Greeks and barbarians are eternally enemies by nature. Gentili observed the same opposition between other peoples, the Palestinians and the Jews, the Christians and the Saracens, and the Romans and foreign nations. He would not accept that such differences were natural and eternal 'for, on the contrary, we are by nature all akin':

'The Greeks and the barbarians were trained

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1. C. Phillipson, *The International Law and Custom of Ancient Greece and Rome*, London 1911, p.37.

to be enemies one of the other. That is a different reason, and perhaps it is not very far from being a natural one, for it is the result of education, which is a second nature.' <sup>1</sup>

There was then to Gentili's mind a deeper level of the understanding of man which discovers a shared human identity more profound than the cultural and social differences which exist between peoples. Gentili asserted that men are to be treated not in accordance with their membership or group origin but as men who share a common human nature and deserve treatment in accordance with a common morality. A man's racial or cultural characteristics are regarded as less fundamental as this understanding of man develops. And it is this development which is fundamental in this thesis for the elaboration of an international relations theory which challenges the primacy of that state-system, just as it was fundamental in the social and moral development of the ancient world. Let us in concluding this short section focus upon its development there.

One of the fundamental developments consisted in the fact that Hellenism came to be regarded as 'a thing of the spirit and not dependent on the race to which a man belonged or the place he was born'.<sup>2</sup> One of the important thinkers in this transitional stage on the way to Stoicism was Isocrates who writes in his Panegyricus:

'And so far has our city distanced the rest of the world in thought and in speech that her pupils have become the teachers of the rest of the world; and she has brought it about that the cause 'Hellenes' suggests no longer a race but an intelligence, and that

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1. Gentili, *op.cit.*, p.55.

2. G. Murray, quoted by J.B. Scott, *Law, the State and the International Community*, Columbia 1939, p.52.

the title 'Hellenes' is applied rather to those who share our culture than to those who share a common blood.'<sup>1</sup>

This is an important move whereby Hellenism becomes not an attribute of birth but an individual achievement, no longer the exclusive possession of a group but a set of characteristics which any man can develop in himself through his own efforts. There was in this development an imaginative breakthrough which could not be contained within the narrow preserves of the city-state. Stoic thought would emphasise the primacy of individual and intellectual virtues over the civic virtues so characteristic of the morality of the separate city-states. The view that all men possessed reason brought men to think less of the exclusiveness of their city-states, more of the whole inhabited world (Oecumene) and of their loyalty to the whole of mankind. This expansion of the imagination led to the dual loyalties of Stoic thought:

'There are for every man two laws, the laws of his city and the law of his world-city, the law of custom and the law of reason. Of the two the second must have the greater authority and must provide a norm to which the statutes and customs of cities should conform. Customs are various but reason is one, and behind variety of custom there ought to be some unity of purpose. Stoicism tended to conceive of a world-wide system of law having endless local branches. Localities might differ according to circumstances without being unreasonable, while the reasonableness of the whole system tended to keep the variation from becoming opposition.'<sup>2</sup>

There was then an expansion of community by the breaking down of the more exclusive loyalties of the city-states. Citizenship of a polis was no longer the highest value and possession owned exclusively by

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1. *Isocrates* (with an English translation by G. Norlin), vol.1, London 1928, p.149.
  2. G. Sabine, *A History of Political Theory*, London 1961, pp. 150-151.

one section of its membership. And of course the development of this was the fact that citizenship could be extended to non-Romans within the Empire. The old exclusiveness of citizenship gave way to the more inclusive and open ideas which prevailed in the Empire.<sup>1</sup>

V

The process described above is one where men detach themselves, so to speak, from their particular societies and cultures and assert that as men they have rights and obligations since they are equally governed by a morality which applies to mankind in its entirety. Indeed, what has developed is a moral perspective which makes the external point of view possible. Because by regarding themselves in this way men are capable of articulating more particular principles for the regulation of the relations between their communities. It is only through seeing oneself as a particular social, cultural or political being, and as a moral agent who transcends the division of men along these lines, that the individual can begin to think of an external point of view which would provide a yardstick for judging or conducting the relations between the sub-divisions of humanity.

Now we shall find in the following section that both Pufendorf and Vattel, who are my representatives of the internal point of view, and Kant, who is my representative of the external point of view, share the idea that there is a morality which governs the whole of mankind. There is an important respect in which each of these formulations of a

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1. For an account of these ideas see L.S. Mazzolani, *The Idea of the City in Roman Thought: From Walled Community to Spiritual Commonwealth*, London 1970.

point of view shares a vital philosophical idea - the idea that men are moral equals. However, Pufendorf or Vattel do not consider this in its historical setting. The idea of moral equality is not seen in terms of a long process of historical development which may be continued by gradually subjecting the sphere of international politics to its rule. Moral equality is a starting point in the theory, but it is detached from its historical setting and consequently it is not regarded as a goal which might be gradually approached at the international level. These theorists, through a variety of arguments which will be considered later, make a case for the separate state and overlook moral equality as a standard by which to regulate the relations between states. Kant, on the other hand, points to the idea of moral equality as a concept which has been uncovered in the course of man's history and which may be further applied throughout man's history until the whole of humanity regulates itself in accordance with principles whereby men recognise each other as equals. While the internal point of view begins with the moral equality of mankind and moves to the division of mankind into separate, sovereign states, the external point of view regards moral equality as attached to human nature but only gradually brought to bear upon a wider range of social and political relations including those at the international level. While the internal point of view regards progress as mainly a 'domestic' affair, the external point of view understands it in terms of the increased scope for moral equality in all social and political relations, including international ones.

By taking the idea of moral equality as its starting point the internal point of view differs in another important respect from the

view of progress found in the theory of Kant. In coming to see themselves as moral equals men overcome what they take to be decisive differences due to social and cultural heritage. And in so doing they obtain moral freedom for they establish principles for themselves on account of their awareness of their common rationality. They are led to criticise their traditional and uncritical standards and to replace these with rational and universal principles. Their moral freedom consists in their capacity to detach themselves from their particular social and cultural backgrounds in order to articulate the moral principles which ought to be followed by a rational person. In drawing our attention to this phenomenon the external point of view in Kant argues for the enlargement of application of moral principles in social and political life. To regulate international relations in accordance with a rational morality is to enlarge moral freedom since the principles of behaviour follow from critical, rational human nature. And the theory of progress requires the gradual extension of moral principle in international relations so that men capable of detaching themselves from their particular social or cultural or political contexts can better express themselves as critical and rational beings.

We arrive then at two theories of international relations with two contrasting theories of progress. The first understands progress first and foremost as the improvement of relations within the state, and only secondarily as the improvement of relations between states. And 'international' progress moreover is not an end in itself, but merely the establishment of a particular type of environment favourable to the separate state. The second theory understands progress in terms of the elaboration of principles which recognise the moral

equality of all men and the application of these principles to the entirety of social and political life. Necessarily since these principles are the principles of rational beings our second theory is particularly concerned with the enlargement of moral community, with the erosion of the social, cultural and historical barriers between peoples which stand in the way of a more inclusive moral community. According to this concept of progress these barriers are arbitrary or irrelevant from the moral point of view, and progress consists in superimposing upon them a structure of rights and obligations which correspond with the common rationality of men. Progress is the continual enlargement of moral community, the move from exclusive to inclusive ways of associating.

Traditional political theory, by being state-centred, takes the boundaries of community for granted. By analysing, explaining, prescribing for relations within an established community, political theory of the state-centred kind, can be accused of too narrow a focus. It can be accused of reflecting uncritically its cultural context's way of structuring the social world into insiders and outsiders. Prescription and progress are understood in terms of the improvement of relationships within the community whose existence or value as an exclusive entity is taken for granted. It is for this reason that state-centred political theory may be regarded as attached to the internal point of view, that the theory of international relations becomes 'the theory of survival'. The external point of view in regarding the extension of moral community as an end for rational men challenges the dichotomy the internal point of view would wish to make within the theoretical life. Domestic political theory is not 'the theory of the good life' while international relations theory is

'the theory of survival'. The external point of view wishes to unify the theoretical life (within the study of politics) under a theory of progress consisting of the enlargement of moral community and the enhancement of human rationality.

CHAPTER FIVE

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The Philosophy of International Relations

I

I propose now to begin a theoretical account of the experience of belonging to a humanity which is divided into separate, sovereign states. The objective is to employ some of the conceptual themes which have previously been described in order to represent a particular experience of the modern state and international relations. The account or understanding I have in mind parallels the traditional concern of political theory with giving a theoretical representation of the experience of living in a state. The philosophy of international relations must have as one of its main objectives an account similar in method to the accounts of the state given by traditional political philosophers.

A word has to be said first of all about the nature of the enterprise. It is clearly distinguishable (to begin with what it is not) from the enterprise of the historian or the sociologist. One author sees the difference between them in terms of the difference between interpretation and description.

'In describing or identifying something one is dealing with empirical qualities, and thus remains pretty close to one's subject matter, that is one never moves away so far from the object of one's description that it is no longer recognisable ... In interpreting something one moves away from it, or rather from the way it appears on the first look to its ultimate constitution; and therefore one's analysis of it can never be useful in identifying it at the phenomenal level.'<sup>1</sup>

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1. B.C.Parekh, "On the Nature of Political Philosophy", in P.T.King and B.C. Parekh, *Politics and Experience*, Cambridge 1968, p.166.

Interpretation is, the author goes on to say, a method of understanding the nature of a thing by uncovering 'the source of multiplicity in some general elements or principles and then reduc(ing) the multiplicity to a fully satisfactory degree of order'.<sup>1</sup> The objective of an interpretative account of the experience of living in a humanity divided into separate states would be to reveal it as divided between two modes of experience previously discussed, namely between an internal and an external point of view. The objective of this chapter is to show that our experience of international relations is necessarily split between two competing viewpoints and that a fuller philosophy of international relations must aim at overcoming the division.

The experience of international relations is the experience of living in separate states. Yet this is unsatisfactory as an explanation since the separate state is the product of deeper cultural forces. The state, in the words of Kropotkin, is one of the forms adopted by society in the course of its development.<sup>2</sup> It is one of the ways in which societies have constituted themselves in the modern world, one of the ideas about political life within a particular culture or civilisation which has been appropriated by a number of societies. So although our first impression is of a humanity divided into separate, sovereign states our second impression is of the common cultural or ethical foundations of the state system. The preparedness to live in separate, sovereign states is in fact the shared experience of a particular culture. There is a kind of unity midst the division.

Let us explore this in a little more detail. The separate state institutionalises the division between insiders and outsiders,

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1. *ibid.*, p.165.

2. P. Kropotkin, *The State: its Historic Role*, London 1969, p.10.

and is therefore a reflection of a particular culture's assumptions about the boundaries of moral community. The individual can therefore consider himself in two ways; in the first place, as an insider who has a status refused to outsiders and the capacity to make particular claims denied to them; in the second place as an outsider whose claims on other communities need not be heeded since obligations to him are residual. The individual is aware of being the subject of an internal point of view (that underlying his own political association) and the object of an internal point of view (that underlying other political associations). An explanation of the experience of living in a humanity divided into separate states must take account of the plurality of internal points of view. The internal point of view underlies every state which is not co-extensive with humanity. It is because each state reflects and enacts an internal point of view that it is possible to say that states form a kind of society. They form a diplomatic society where each state assumes the legitimacy of a particular set of social and political principles underlying the others. Diplomatic society is constituted by a plurality of internal points of view with states accepting the legitimacy of associations predicated upon them. Thus, states form a kind of society, one where there is necessarily the prospect of conflict (even of a large scale), but it is a kind of society nevertheless.

It is important to consider one objection to this portrayal of international relations as a society. It may appear that the attempt to describe the state-system as a society, on account of some common system of beliefs underlying member states, is a misguided one since it purports to discuss a heterogeneous and conflict-prone context in a language more applicable to a context marked by consensus and

homogeneity. However, it does not follow that individuals or groups sharing common principles must necessarily be in a condition of harmony. There is an elementary sense in which conflict is only possible between groups which share some common experience. Of interest too is the concept of the state of nature (as understood in the writings of Hobbes and Spinoza), a concept which has often been employed to describe the main features of international relations. Conflict in the state of nature is made possible by the fact individuals believe they possess the right to advance their interests even at the expense of the interests of others. And until certain arrangements are made whereby individuals are more responsible to each other and limit their rights accordingly, no social harmony is possible. But the state of nature is a society even if it is not a harmonious one. One author has written of Spinoza's state of nature that it is 'anti-civil' rather than 'anti-social' as even 'to fight against a man is a proof of a common social nature in each'. Men, it is said, 'fight in order thereby to establish certain social relations which appeal to them as better than those existing already'.<sup>1</sup> There is a kind of recognition of humanity even in war since those with whom one is in a condition of conflict are beings with whom one could be civilly related, at least in principle, but would prefer not to be, at least on existing terms. This is true both of the state of nature between individuals and between states. The 'permissive' cause of their conflict is their shared belief that the particular individual or group is at liberty to advance its particular welfare, obligations to take account of the interests of outsiders being merely residual. The state-system constitutes a society in the sense that each state claims the liberty of

1. R.A. Duff, *Spinoza's Political and Ethical Philosophy*, Glasgow 1906, pp. 155-156.

advancing its interests and recognises this is a fundamental obligation for every separate political association. Each state through the process of recognition legitimises the internal point of view of another and so forms a peculiar type of society of states.

The argument, as it has developed so far, maintains that international relations or that part of them known as the state-system can be understood as a plurality of internal points of view. There is in other words an ethical basis of the society of states. Arguably then this ethical basis requires closer analysis, for if the state-system ought to be changed it is perhaps through changing the ethical ideas which underlie it. I propose, with this in mind, to look at the ideas of K. Waltz on the 'permissive' cause of international conflict. Waltz's ideas are of interest for two reasons: in the first place, they appear to reject the need for a philosophical account of international relations and in the second place, they appear to deny the need to take account of moral philosophy in the consideration of specific issues which arise in the course of inter-state relations. The position in short appears to reflect an idea encountered previously - that international relations theory is 'the theory of survival' since inter-state relations consist of unique and dramatic issues which defy a philosophical account. In opposition to this I wish to suggest that there is an ethical basis underlying the state-system, that it is found principally in the idea-system called the internal point of view, and that any prescriptive theory of international relations must at some stage address itself to the obligations which this point of view requires of the individual. But let us consider first of all some of the main lines of argument used by Waltz.

In 'Man, the State and War' Waltz introduces three levels of

analysis of the causes of war.<sup>1</sup> It is argued that 'prescription is logically impossible apart from analysis' and that the three levels of analysis, the images, exhaust all logical possibilities to be discussed prior to beginning those questions which deal with prescription.<sup>2</sup> The core of Waltz's argument is that the problem of war could be explained either as a product of man's evil nature, or as a result of the ways in which states are domestically constituted, or finally as a result of the anarchy of the state-system since the external relations of states are conducted outside government. For Waltz the last mode of explanation offers the most adequate account since it takes account of the 'security'<sup>3</sup> dilemmas of states fending for themselves in an anarchic condition - an understanding of international relations as a peculiar context which is represented in dramatic form in Rousseau's parable of the stag and the hare.<sup>4</sup> Accordingly any prescriptive theory of international relations must address itself - if it is to be realistic - to the third image of international conflict. If the problem of war is the problem of the external relations of states prescription must seek ways of adjusting these relations. Good prescription involves the discovery of restraints which will make it difficult for states to pursue their ends without incurring some hostile response from others. It involves the attempt to balance their external relations so that a peaceful condition may result.

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1. K. Waltz, *Man, the State and War*, Columbia 1965.

2. *ibid.*, pp. 13-14.

3. A concept used by J.H. Herz, *Political Idealism and Political Realism*, Chicago 1964, p.14.

4. Rousseau's parable and the lesson Waltz draws from it are used by Rosecrance "International Interdependence", in Goodwin and Linklater, *op.cit.*, ch.1.

This analysis would appear to maintain that the fundamental problem of international relations - the problem of war - can best be approached through the adjustment of the external relations between states while individuals relate to their separate states just as they did before. The values which support the state-system do not require criticism since they do not appear, in Waltz's view, to belong to the 'permissive' causes of war. In this case prescription recommends the adjustment of the external relations of states while the ethical basis of the state-system remains uncriticised and unchanged. There is no need to think anew our obligations to the state and to the rest of mankind since the rights and obligations of the individual and collectivity play no fundamental role as a 'permissive' cause of war, or in making war possible.

There appear to be two explanations of Waltz's tendency to overlook the role of moral philosophy in prescriptive international relations theory. In the first place he rejects the idea that justice and obligation form one of the important bonds between the members of a society. The emphasis instead is upon the role of authority as the main instrument of social control, and this spills over into Waltz's notion of the main ingredient of international order:

'The authority, not the categorical imperative, is the important factor so far as peace is concerned.'<sup>1</sup>

Closely related to this is Waltz's agreement with Kelsen that justice is not a rational idea:

'The important point, however, is not that there is in the state a way of making and enforcing correct decisions but that some

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1. *op.cit.*, p.190.

decision be made and followed. Thus Hans Kelsen has argued that 'justice is an irrational ideal. However indispensable it may be for volition and action of men, it is not subject to cognition. Regarded from the point of view of rational cognition, there are only interests and hence conflicts of interest'. One set of interests can be satisfied at the expense of another, or they can be compromised. But one cannot say that one of these ways of dealing with conflict is just, the other unjust.'<sup>1</sup>

As far as Waltz is concerned it is not the absence of a strong sense of obligation to outsiders but the absence of constraint upon the sovereign state in the condition of international anarchy which accounts for the ever-present possibility of war. Consequently international relations theory can ignore the realm of the normative.

It is arguable that 'war will be perpetually associated with the existence of separate, sovereign states'.<sup>2</sup> But the permissive cause of this does not stem alone from the anarchic context of inter-state relations. To maintain that it does is to ignore the fact that the separate state rests upon a system of obligation (perhaps tacitly) which involves the population of the state in common claims against outsiders. It is important to take account of the fact that the state is a limited moral community which seeks to advance its interests even if in so doing it will harm the interests of outsiders. The mere existence of separate states brings about a possible condition of conflict by virtue of the fact that each is concerned with the satisfaction of its own interests first and foremost. Disputes, conflicts and perhaps war are inseparable from the state as a limited moral community and as an association which enacts an internal point of view. This was quite clearly seen by Hegel of whom one author writes:

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1. *ibid.*, p.190.

2. *ibid.*, p.238.

'For Hegel the task of political philosophy is to analyse and relate together those forms of experience through which ethical and political life occurs. War, being one of the forms of political life, must have a place in the philosophical account of the political. War can no more be regarded as accidental to the activity of the state than peace. War and peace are both modes of activity in the actual life of states and are to be part of the philosophical analysis of the state.' <sup>1</sup>

According to this view the possibility of war lies not merely in the anarchic condition of international relations but also within the state constituted as it is by particular assumptions about its rights and obligations. Therefore, in a world divided into separate states conflict is possible not only because of the anarchic context of interstate life but because states are the entities they are. <sup>2</sup>

Let us consider an alternative account of international relations, one offered by G. Modelski. <sup>3</sup> This writer maintains that the state-system consists of the following five features. Firstly, it is legitimate and natural that the world is divided into separate, sovereign states. Secondly, each state has the right of dominant control over its citizens. Thirdly, ultimately the nation-state has no responsibility but to itself. Fourthly, there is a radical separation between the internal affairs of the state and its external relations. Fifthly, each state has the right of self-help. These five features can be regarded as indicating that the state-system, and the principles

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1. D.P. Verene, "Hegel's Account of War", in Z.A. Pelczynski, *Hegel's Political Philosophy*, Cambridge 1971, p.170.
  2. Rousseau clearly thought the existence of one state, based on the desire to advance its own interests, would in itself provoke the formation of other states: 'It is easy to see how the establishment of one community made that of all the rest necessary, and how, in order to make head against united forces, the rest of mankind had to unite in turn.' *Discourse on the Origins of Inequality* (ed. Cole), London 1963, pp. 205-206.
  3. *Principles of World Politics*, New York 1972, pp.114-116.

underlying it, are closely related to the nature of the association called the state. To return to a point made earlier the theory and practice of the state already contain the germs of a theory and the fundamentals of a practice of inter-state relations. And these two spheres of the state's existence are held together by a more embracing concept - the internal point of view. If 'war will be perpetually associated with the existence of separate, sovereign states' this is largely the result of their being constituted by an internal point of view. A philosophical interpretation of international relations, seeking 'the sources of multiplicity in some general elements or principles', will find the internal point of view suffices, drawing together as it does some of the rapports between the state and the conduct of inter-state relations.

It has been argued that a philosophical analysis of the state would be an important part of the analysis of the state-system and it has been suggested that an approach to the maintenance of international order requires us to rethink the ways in which we relate to the separate state. The problems of international relations, so it has been argued, are integrally related to the way in which we conceive of the state and in particular of our obligations to it. It is important to stress that these points are not contained within Waltz's second image of international relations. The second image considers the political organisation of the state, its constitutional form, whether it be a democracy or a tyranny for example, and proceeds to argue that the incidence of war is directly connected with the nature of the state's organisation. The argument I have put forward above is however distinguishable from the second image of international relations, and indeed from the other two images also. For while Waltz considers

the nature of man, the organisation of the state and the context of interstate relations, at no stage does he consider the state as a particular kind of political association. It is quite clear that Waltz's three images do not consider the state as such. Accordingly, Waltz's analytical framework is not logically exhaustive and its prescriptive value is limited. The three images, or the three philosophical interpretations of international relations are incomplete without an interpretation which examines the rapports between the state as a particular type of political association and the general characteristics of international relations. And if the argument of this thesis is correct, that the internal point of view provides a conceptual scheme which performs this task, then an approach to the problem in order must include a consideration of the individual's relation to the state, of his obligations to the state and to the rest of humanity.

## II

It has been argued that if war is inherent in the state-system it is because of the nature of the state as a limited moral community. A number of limited moral communities, each of which is capable of harming the interests of another, necessarily come into conflict. It is important now to consider a view of the state and international relations which would appear to be in disagreement with both this view and the previously discussed ideas of Waltz. T.H. Green maintained:

'There is no such thing as an inevitable conflict between states. There is nothing in the nature of the state that, given a multiplicity of states, should make the gain of one the loss of the other.'<sup>1</sup>

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1. T.H. Green, *Lectures on the Principles of Political Obligation*, London 1966, p.170.

Now it can be argued that Green reaches his conclusion through his acceptance of a second image of international conflict. He maintains:

'just so far as the perfect organisation of rights within each nation, which entitles it to be called a state, is attained, the occasions of conflict between nations disappear.'<sup>1</sup>

It is part of Waltz's complaint against the second image, that even perfectly constituted states may find themselves in conflict for their internal organisation, no matter how perfect, is not a guarantee against international conflict. And this is necessarily true of those parts of Green's argument where he appears to assume that with the disappearance of a 'privileged class' which denies the civil rights of a 'suffering class' the source of war will be removed.<sup>2</sup> Accordingly, it can be argued that Green is mistaken in thinking that war is not inherent in a world divided into sovereign states.

However, there is in Green's writings another and more forceful argument which renders his claim that there is no such thing as inevitable conflict between states quite tenable. Green refers to the natural right to life and liberty, or to what he terms a 'free life' and he maintains 'the right is one that belongs to every man in virtue of his human nature (of the qualities that render him capable of any fellowship with any other men), and is a right as between him and any other men'.<sup>3</sup> In the course of their historical development men have come to regard this right as inherent in human personality itself rather than owed only to those who are fellow members of a particular tribe or society. And the claim that the right to a free life is a natural or human right necessarily involves a commitment to the well-

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1. *ibid.*, p.175.

2. *ibid.*, p.171.

3. *ibid.*, p.156.

being of men everywhere:

'If the claim is made on behalf of any and every human being, it must be a claim on human society as a whole, and there must be a possible common good of human society as a whole, conceived as independent of the special conditions of particular societies, to render such a claim possible.' <sup>1</sup>

And indeed the good state is one which recognises these rights. The state is however the product of previous social development, a development which does not cease with the formation of the state. It arises because:

'there must have been families of which the members recognised rights in each other (recognised in each other powers capable of direction by reference to a common good); there must further have been intercourse between families, or between tribes that have grown out of families, of which each in the same sense recognised rights in the other.' <sup>2</sup>

The state is then a particular association concerned with the recognition of natural rights. But since these rights are the rights of men rather than the rights of citizens the state cannot ignore a morality at the international level:

'Hence there is no ground for holding that a state is justified in doing whatever its interests seem to require, irrespectively of effects on other men. If those effects are bad, as involving either a direct violation of personal rights or obstruction to the moral development of society anywhere in the world, then there is no ultimate justification for the political action that gives rise to them.' <sup>3</sup>

Green also maintains that:

'With the abatement of national jealousies

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1. *ibid.*, pp. 157-158.

2. *ibid.*, p.139.

3. *ibid.*, p.173.

and the removal of those deeply seated causes of war which, as we have seen, are connected with the deficient organisation of states, the dream of an international court with authority resting on the consent of independent states may come to be realised. Such a result may be very remote, but it is important to bear in mind that there is nothing in the intrinsic nature of a system of independent states incompatible with it, but that on the contrary every advance in the organisation of mankind into states in the sense explained is a step towards it.' 1

According to Green war is not inherent in a system of sovereign states or in the state as such, and this is the case since it is possible for the state to embody the recognition of rights which require it to take its place within a more inclusive moral community.

Let us now consider Green's arguments in relation to the ideas put forward in the first section of this chapter. There it was argued that conflict is inherent in a system of sovereign states each of which is based upon an internal point of view; or, that conflict and diplomatic society are inseparable. The emphasis is however not upon the separate state as such, but on the value-system underlying it, on the fact the separate state has an internal point of view of obligation. It is however possible for the state to recognise a morality at the international level which will require it to take a different view of its place in international relations. Separate sovereign states may develop an awareness of an external point of view with which to regulate their relations. And indeed several states may be able to regulate their relations by moral principles without giving way to higher international agencies. There are however two points to make with regard to this. In the first place, there is a tension

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1. *ibid.*, p.179.

within a society which understands itself as the application of universal standards within a particular territorial area and which also holds fast to its sovereignty. As an association built upon universal moral standards its territorial limitation must appear inadequate and it ought to have as its objective its inclusion within a more inclusive moral community which possesses institutions which protect the common good of the whole world. On the other hand, a state which holds fast to its sovereignty and territorial integrity would appear to regard its exclusiveness as valuable and this will necessarily prevent the full application of universal moral standards in its external relations. There is then in the first place the question of the extent to which a state can hope to preserve its sovereignty while aiming at the fullest application of universal moral standards in political life. There is, on the other hand, the fact that universal moral standards have to be applied to a condition where humanity is divided into separate, sovereign states and it is easy to underestimate the difficulty of moving beyond this condition. It is evidently the case that states must through their own relations come to accept the importance of universal standards, but until trust develops it is necessarily the case that they will wish to preserve their sovereignty. Even good states which apply the principle of right can only gradually move towards their own incorporation with a more inclusive moral and political community. Citizens can only accept the incorporation of their states within such associations when they are confident that universal moral standards will continue to be applied. For these reasons any move from a diplomatic society to an international society must be a gradual and complex one whereby the internal point of view is replaced by an external point of view.

Let us now consider some of the main points in this section.

It has been argued that international relations can be understood as the manifestation by separate states of an understanding of political life called the internal point of view. I have maintained that states with this view point underlying them are prone to conflict. But it has been suggested that the modern state is to some extent involved with another set of ideas, namely the external point of view. Indeed, if the problems of international relations stem in large part from the internal point of view rational citizens could re-examine their obligations to the state and to the rest of humanity in order to arrive at principles for an alternative organisation of world society. And indeed, it is perfectly possible to imagine citizens and states gradually coming to accept the principles of the external point of view, or to imagine some state accepting its principles while others refuse to acknowledge it either through perversity or on account of an alternative cultural perspective. And indeed it is possible to imagine some members of a state accepting the external point of view while their government rejects it or fails to enact it properly. Whatever the case it is arguable that it is not the state but a particular perspective underlying the state which is responsible for international conflict. And an attempt to give an account of the experience of living in a humanity divided into separate states must consider this perspective. In so doing, however, it indicates that it is possible for the state to adopt a different perspective, that there is nothing in the separate state or diplomatic society which inevitably commits the state to an internal point of view indefinitely. Our philosophical account notes the existence of an internal point of view underlying the state, but it also notes the possibility of an external

point of view developing alongside it.

### III

Although the internal point of view underlies every state it would be erroneous to think it did not compete with other points of view, even ones which are sharply antagonistic to it. An account of the experience of living in a humanity divided into separate, sovereign states would be incomplete if it focussed merely on the internal point of view. For the citizen of the modern state may have loyalties which are in conflict with the state-system. An account of the nature of international relations should then consider the fact that any state which aims to enact an internal point of view may find opposition from insiders who wish to separate themselves from the state to which they belong - usually on account of an ethnic or national identification. But these allegiances are not necessarily incompatible with the state-system as such. They require for the most part no more than a redefinition of the units which constitute the state-system. Nevertheless an account of international relations must stress the existence of loyalties which are incompatible with the state-system as it is presently constituted. And this is true not only of states in the 'Third World' but of states in Western Europe too.

The state-system and the principles underlying it do not go unchallenged. But the challenge is not only from national or ethnic groups which spill over traditional state boundaries. There is in addition (and this is particularly the case in Western Europe) the existence of loyalties higher than the state and obligations which point beyond it. There is at the heart of the modern state in Europe a perspective which is incompatible with the idea that the obligations

of the internal point of view are primary while others are secondary. Evidently religious belief often seeks to express or build a moral community more extensive than the nation-state and contests the idea that the individual owes his obligations first and foremost to the separate, sovereign state. The tension between citizenship and religious affiliation has been a recurring feature of both the theory and practice of the separate sovereign state. The theorist of the separate state must attempt to contain universalist religion pointing as it does to obligations beyond the state. Recognition of the opposition between universalist religious belief and the primacy of the civic virtues is particularly evident in Rousseau's political theory where the tension is to be overcome through a civil religion 'without which a man cannot be a good citizen or a faithful subject'.<sup>1</sup> But for another writer, Bakunin, there is an inescapable tension between obligations to the state and obligations to humanity, which can only be overcome through the disappearance of the state itself.

Bakunin refers to the fact that:

'The modern state, as we have said, has freed itself from the yoke of the Church and has consequently shaken off the yoke of universal or cosmopolitan morality of the Christian religion, but it has not yet become permeated with the humanitarian idea or ethics - which it cannot do without destroying itself, for in its detached existence and isolated concentration the state is much too narrow to embrace, to contain the interests and consequently the morality of, humanity as a whole.'

Bakunin saw a tension between the social contract theory of the state, which has as its end 'the common interest and the public right of all individuals who formed this contract, with the exception of those who

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1. Rousseau, *Social Contract*, (ed. Cole), London 1968, p.114.

2. *The Political Philosophy of Bakunin*, (ed. G.P. Maximoff), London 1964, p.137.

remained outside of it',<sup>1</sup> and the 'idea of humanity' which has now grown so strong that it may destroy the state - 'since the triumph of humanity can be realised only through the destruction of states'.<sup>2</sup> There is, according to Bakunin, an inescapable tension between obligations to the state and obligations to humanity.<sup>3</sup> Indeed, the tension between them has been noted by other writers. Kenneth Boulding writes of:

'a serious ethical dilemma that has become overwhelmingly acute in the modern world - that of reconciling the universal ethic that both science and high religion imply with the particularistic loyalties to existing institutions and responsibilities.'<sup>4</sup>

This tension is of the utmost importance. No account of the experience of living in a humanity divided into separate states is complete unless it draws attention to the fact the citizen of any separate state has fundamental obligations to outsiders - obligations due to outsiders as men, as indeed the concept of humanity divided into separate states already acknowledges. It is arguable then that within the modern state which is based on the concept of the rights of the individual, or the rights of man, there is a fundamental conflict. For on the one hand the state as a separate association has its internal point of view while on the other hand it subscribes to a universal ethic which would appear to require a considerable transformation of its theory and practice of external relations. It is to this tension

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1. *ibid.*

2. *ibid.*, p.140.

3. Bakunin's argument differs from the one put forward earlier in that this tension is absolutely inescapable since the state is necessarily limited to a portion of mankind whose interests it necessarily advances against the interests of outsiders. Since Bakunin cannot allow for the development of a different view of obligation on the part of citizens it follows that the triumph of humanity can only be accomplished through the destruction of separate states.

4. *Conflict and Defence*, New York 1962, pp. 330-331.

within the modern state, which is so crucial to the understanding of the experience of a humanity divided into separate, sovereign states, that the following section turns.

#### IV

We have previously taken note of some of the implications for world society of the view that morality is not merely a phenomenon which is to be enacted by members of the same society. A society which comes to realise that there are moral principles which follow from the idea of being human or that there are rights which are attached to human nature itself has undergone a profound change with immense implications for its political life. One of the consequences of such a morality is the need for a reinterpretation of the state. In reasoning about the state in fresh terms it will be important to inquire into the kinds of social and political arrangement which will most adequately reflect the rights and obligations which men have *qua* men. For if the concept of rights and obligations owed to man as man is taken seriously it is necessary to reason afresh about the types of relationship or arrangement between societies or states which will most adequately conform to these moral ideas. There is a need for a reconsideration of the place of the separate community in world society in order to maintain the wholeness of moral and political experience in the face of an apparent tension between the obligations men have as members of separate communities and the obligations they have simply as men. It is evidently impossible for them to maintain that their obligations to those with whom they identify and with whom they wish to live form a separable, insulated whole. Certainly men may acquire considerable advantages within their communities by claiming that as

men they are due certain moral considerations, but it is no less true that they incur considerable obligations in the conduct of their external relations if they take their moral language at all seriously. Indeed they will not have explored the resources of their language fully if they do not begin to specify their obligations to outsiders and indeed their rights against outsiders. Indeed it is an inadequate concept of man which articulates the rights of men within states while ignoring their rights within world society at large.<sup>1</sup> Certainly, a society which employs the language of the rights of men must reconsider the idea that the mere fact a man is a member of a different community is sufficient reason for treating him differently from insiders. And they must equally reconsider the assumption that action on behalf of the society's welfare may ignore or ride over the interests of outsiders. While the rights and obligations owed among insiders can no longer be taken for granted (for they may be overridden by the demands of membership of a more inclusive moral community), so license in the conduct of external relations must be ended. Clearly the area of what can be contested morally and politically is greatly enlarged.

Undoubtedly the claim that man *qua* man has rights arose in the development of Western political experience to cope with its own internal political problems - in particular to secure for the individual certain guarantees against the state. And at least in the first

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1. There is an interesting twist to this remark in the writings of Isocrates. In calling for a concerted Greek action against the Persian Isocrates pointed to the foolishness of asserting that within states the Greek had the right to govern barbarians while in his external relations the failure to unite against the barbarian could result in the barbarian ruling the Greek. Isocrates writes: 'For verily it is shameful for us, who in our private life think the barbarians are only to be used as household slaves, to permit by our public policy so many of our allies to be enslaved by them.' *Isocrates, op.cit.*, p.149.

instance it is not surprising that theorists should deploy their language of rights and obligations in order to secure improvement in the nature of the state. But there was in the West a reluctance on the part of those theorists, who thought that rights were attached to sheer humanity, to articulate a theory of international relations in these terms. Hegel, for example, believed:

'A man counts as a man in virtue of his manhood alone, not because he is a Jew, Catholic, Protestant, German, Italian, &c. This is an assertion which thinking ratifies and to be conscious of it is of infinite importance. It is defective only when it is crystallised, e.g., as a cosmopolitanism in opposition to the concrete life of the state.'<sup>1</sup>

Bosanquet, reflecting the influence of Hegel, wrote that 'our nation remains after all our instrument for doing services to humanity and our main ideal of humanity itself.'<sup>2</sup> Rousseau maintained that 'the feeling of humanity evaporates and grows feeble in embracing mankind' and recommended that 'our humanity should confine itself to our fellow citizens' if it is to be 'active'.<sup>3</sup> The problem, as these writers see it, is the absence or undesirability (especially in the case of Rousseau) of a social group at the level of mankind, the absence of concrete relationships or associations through which principles of humanity can find expression. A more complete account of this idea exists in the following quotation from Durkheim:

'On the one hand, we can scarcely help conceiving moral ends that are loftier than national goals; on the other hand,

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1. Hegel, *The Philosophy of Right*, Oxford 1952, p.134.
  2. B. Bosanquet, "The Teaching of Patriotism", in *Social and International Ideals*, London 1917, p.15.
  3. Rousseau, *A Discourse on Political Economy*, Ed. Cole, *op.cit.*, p.246.

it seems quite impossible that these loftier ends can be embodied in a human group adequate to them. The only way of resolving this difficulty, which troubles public thinking, is to seek the realisation of the human ideal through the most highly developed groups that we know, through those closest to humanity as a whole, but without confusing the two - that is, through the efforts of specific nations. To eliminate all such contradictions, thus satisfying the requirements of our moral consciousness, it suffices that the state commits itself as its main goals not to expanding in a material sense to the detriment of its neighbours, not to gaining greater strength than they; or to becoming richer than they; but to the goal of realising among its own people the general interests of humanity - that is, committing itself to an access to justice, to a higher morality, to organising itself in such a way that there is always a closer correspondence between the merit of its citizens and their conditions of life with the end of reducing or preventing individual suffering. From this point of view, all rivalry between different countries disappears and consequently between cosmopolitanism and patriotism.'<sup>1</sup>

Now there is a sense in which the principles of humanity can be applied to the relations between groups without their forming a similar social group among themselves, at least in any precise form. Certainly, in recourse to and in the conduct of war communities can be obliged to respect certain moral principles derived from the supposition that all men are to be treated in accordance with one morality. And these obligations apply to a condition where men are farthest from forming a more inclusive social group. It is the causal connectedness of men which requires that the principles of humanity should apply to their relations. Whether or not they form a clearly defined human grouping would hardly appear to be relevant. The existence of a morality which applies to man *qua* man creates rights and obligations between the

1. E. Durkheim, *Moral Education*, New York 1961, pp. 76-77.

members of sharply defined separate social groupings, and the failure to elaborate these is a failure of political philosophy and practice to take the implications of universal morality seriously.

It is the existence of a belief in universal morality that makes international theory possible. The fact that men are divided into separate sovereign states but are at the same time members of a world-wide moral community creates tensions in moral and political experience which can only be resolved at the level of an international relations theory. The belief in a world-wide moral community leads the members of any particular society to reconsider the status of rights and obligations against outsiders as these have been conceived traditionally. The use of force in the conduct of external relations becomes problematic and contestable within the context of an international relations theory. Between societies which have few transactions this international relations theory will have to consider international obligations concerning the use of force only. And for the individual an international relations theory can attempt to harmonise any tension within him between obligations to his separate state and obligations to outsiders. At this level it may not be necessary to question the state as a separate or exclusive political association. However, where states develop an increased level of interconnectedness or interdependence, where they engage in a variety of social and economic relationships, and where these involve a variety of non-governmental actors an international relations theory needs to greatly enlarge its scope. For in this context it is essential to discover whether or not the moral rights of persons in different political communities can in fact be safeguarded while men are divided into separate, sovereign states. It is arguable that the causal

connectedness of men may become so profound that the division of men into separate, sovereign states becomes an obstacle to the adequate enactment of principles to humanity. In this context an international relations theory is obliged to ask whether or not the formation of an international association (either at the regional or global level, and with jurisdiction over single or many issues) is itself an obligation of the first order. A political theory which concluded its analysis with the discussion of the right order of the state and the moral framework within which separate states might co-exist is defective. For at a certain stage of social and political development of world society the very division of men into separate, sovereign states becomes a fundamentally important problem for moral rather than utilitarian reasons. For the tension between obligations to the separate community and obligations to outsiders may become more acute than ever since it has opportunity to exist over a wider range of issues. And in this condition a theory of international relations acquires considerable importance in the rethinking of social and political relationships on a regional and global scale.

The international relations theorist cannot take for granted the division of mankind into separate, sovereign states. The theory of international relations is, of course, concerned with the problem of the justification of the state, but the terms of his justification or invalidation of the state differ in a crucial respect from the terms of traditional, state-centred political theory. Traditionally the justification of the state is presented in the form of an argument concerning the reasons for obeying the state and it is therefore a theory addressed first and foremost to insiders. International theory is concerned with the manner in which the state is to be justified to the

outsider, for if obligations to outsiders are of fundamental importance it is necessary to consider the type of 'provincial' political association most in conformity with a universal moral law. For this reason international relations theory considers the principles underlying the bonds between insiders and outsiders and reflects upon the rationale of the separate state from 'above' rather than from 'below', from the viewpoint of international morality rather than from the viewpoint of the insider, the citizen. In this sense it is an expression of the external point of view, the completion of any philosophy of politics which maintains that there is a morality attached to the concept of man *qua* man.

## V

Let us now draw together some of the main themes of this chapter and consider their implications for the remaining tasks of this thesis. It has been maintained that a philosophical account of the experience of living within separate states must draw attention to the internal points of view which underlie the state-system. For in each state wishing to preserve its separateness there is an evident distinction between the insider and the outsider which is fundamental to the way in which it conducts its external relations. But the modern state also contains the idea of a universal morality, its major contribution being the idea that certain rights are attached to the idea of being a man. And indeed any citizen at all sensitive to moral and political issues may consider himself being pulled in conflicting directions as each of these perspectives may make conflicting claims upon him. It is especially in the recourse to and the conduct of war that the citizen or statesman may feel these conflicting demands. He may

reasonably feel a loyalty to those who are equally members of the society of his birth, and he may in addition feel the moral demands of membership of a moral community which is more inclusive than the state. And these tensions are liable to develop in a variety of ways as societies become more interdependent and face in increasing areas of life a choice between the welfare of the state and the welfare of humanity.

There would appear then to be a tension between a world divided into separate states and the belief that one standard of morality applies to all members of world society. What is more this tension is built into the very nature of the modern state, a state which is exclusive but has adopted the language of a morality bestowing rights and obligations on man *qua* man. It is the business of a philosophy of international relations to give an account of modern social and political life which aims at discovering principles which will overcome the tensions within the experience of a humanity divided into separate states. In attempting this function international relations theory performs the classical tasks of social and political philosophy which have been to search for a rational integration of man's social and political life. If it is correct that 'the need for philosophy arises when the unifying power has disappeared from the life of man' then the philosophy of international relations has important tasks to perform. given the tensions within our experience of the modern state and its international relations.<sup>1</sup> One author refers to the fragmentation of modern culture in the following words:

'the social world of man is fragmented not only internally because of the separation

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1. H. Marcuse, *Reason and Revolution*, Oxford 1941, p.36.

of the major spheres of man's activity from one another; it is also fragmented externally because he can view his culture only as one of a series of cultures that exist throughout the world.'<sup>1</sup>

According to my earlier analysis there is a fragmentation of ethical and political life reflected in the opposition between the internal and external points of view. And this is indeed a fragmentation within the modern state which has failed to evolve a theory capable of resolving their opposing claims upon the individual. It is also a fragmentation within world society itself where the conflicts between states can be regarded as a denial of the moral unity of mankind and of its capacity to solve its disunity through the resources of a universal ethic. As international relations theory is concerned with giving a coherent account of moral and political life at the international level, it is with the two conflicting viewpoints of the nature of obligation in a world of sovereign states that it must begin.

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1. D.P. Verene, *Man and Culture: A Philosophical Anthology*, New York 1970, p.3.

PART TWO

### Introduction

In the second part of this thesis I propose to discuss the theory of the state and international relations advanced by three writers - Pufendorf (1632-1694), Vattel (1714-1767) and Kant (1724-1804). The objective of this section is a more detailed and systematic discussion of the internal and external points of view through an analysis of their presentation within these three thinkers' writings on international relations. Pufendorf and Vattel are exponents of an individualistic version of the internal point of view. Their particular interest lies in the fact they both begin with a state of nature in which men are moral equals. It is therefore of interest to probe their arguments about the justification of the sovereign state given their fundamental moral assumptions. I shall show that Pufendorf is a theorist of the internal point of view mainly on account of his tendency to understand the moral community of mankind in a particularly lax fashion. Apart from a few qualifications which will be advanced later, Pufendorf's thinking about international relations defends only the most minimal of diplomatic societies. Vattel too inclines towards a flexible interpretation of obligations to humanity, but unlike Pufendorf he has a strong sense of states forming a kind of society whereby they make various concessions to each other's interests in order to maintain an international order among themselves which operates principally through their common acceptance of the balance of power. There is in Vattel's writings a more powerful sense of international obligation although as with Pufendorf there are fundamental

flaws in his concept of a morality which prevent a more forthright development of an international theory. I shall argue that it is in Kant's writings that we can find a more adequate account of a moral philosophy and its application to international relations. Kant, possessing a stronger sense of obligation to humanity, elaborates an external point of view which makes fundamental demands for alterations of the state-system. In addition, Kant provides us with an interesting philosophy of history which can be used in the attempt to develop some aspects of the theory of international relations. Accordingly, in the third and last section of this thesis I shall provide a prolegomenon to a theory of international relations from the external point of view. This will build upon some of the more fundamental and recurring themes of this thesis in an effort to provide a perspective from which to theorise about our obligations beyond the state. The general method employed in this third section has developed as a sharp reaction to the individualistic thought of Pufendorf and Vattel especially - and indeed of Kant, too, to some extent. It is to these writers then that I now turn.

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CHAPTER SIX

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Pufendorf's Theory of the State and  
International Relations.

In Pufendorf's writings we find one of the classic statements of the internal point of view. I shall be concerned with discussing his formulation of this viewpoint and its relationship with the concept of a morality connected to human nature as such. In order to reconstruct Pufendorf's thought in such a way as to assist our choice between the internal and the external points of view, my interpretation will be concerned with three distinguishable, although ultimately interrelated themes. First of all there will be a discussion of Pufendorf's account of the state of nature and the natural law which binds the individuals within it; secondly, there will be an examination of Pufendorf's defence of the separate, sovereign state, or for a civil society which embraces only a portion of humanity; and thirdly, I shall discuss Pufendorf's ideas about the right relationship for separate sovereign states. The analysis will be concerned principally with the relationship between Pufendorf's belief in a universal morality and his simultaneous defence of the characteristics of the state-system.

I

The State of Nature and the Theory of Natural Law.

It has been said of Pufendorf that he 'effected a certain compromise' between the views of Grotius and Hobbes, two writers whom Pufendorf quotes and discusses at considerable length. The author of this remark has in mind Pufendorf's account of positive law ('Grotius

conceived that the intrinsic nature of things formed the foundation of law; Hobbes held that its source was the will of a sovereign of undefined power. Pufendorf effected a certain compromise between these views'), but it applies to his broader social and political thought as a whole.<sup>1</sup> Pufendorf, to give only one example, explicitly rejects the Hobbesian account of life in the state of nature. For him the state of nature is not a state of war where the ideas of right and wrong have no place. Pufendorf is evidently closer to Grotius in asserting that men in the state of nature are descended from Adam and Eve and thereby owe each other the respect to which men as equals are entitled. Their common human nature requires that they observe obligations to each other as reason would prescribe:

'even though some man may be unable to work me any benefit or harm and has in himself nothing for me to fear or desire, yet it is nature's will that even such a one be considered my kinsman and equal, and this reason alone, were there no others, lays upon the race of men the cultivation of a friendly society.'<sup>2</sup>

Shared human nature requires that men acknowledge obligations to the whole of mankind. Indeed their separation into particular societies should not lead them to overlook the bond of common humanity. Pufendorf criticises the Ancient World where:

'most men had so completely forgotten the principle of natural law, namely that all men are related to each other by nature, and that

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1. C. Phillipson, "Samuel von Pufendorf", in J. McDonnell and E. Manson, *Great Jurists of the World*, New York 1968, p.316.
  2. *De Jure Naturae et Gentium*, (Classics of International Law), Oxford 1934, p.212. (Hereafter *DJNG*.) This echoes Grotius' remark 'For the very nature of man, which even if we had no lack of anything would lead us into the mutual relations of society, is the mother of the law of nature'. *De Iure Belli ac Pacis*, Oxford 1925, p.15.

it is wrong, therefore for one to do violence to another except for some preceding offence, that it was generally believed the duties of humanity should only be exercised towards one's fellow citizens, and that foreigners were no better than enemies, whom we could injure whenever it appeared to be to our advantage.' <sup>1</sup>

Pufendorf therefore stresses the fact that universal morality survives the division of men into separate societies and emphasises the obligation of admitting foreigners and treating them with respect in accordance with its precepts. And in all this Pufendorf is undoubtedly in agreement with Grotius.

Against this we must set Pufendorf's views on the origins of the state. It is evident here that he agrees with Hobbes that men established civil society for their own protection. The insecurity of life in the state of nature and the futility of the solitary individual point to the necessity of the state and the rationality of political obligation:

'the complaint of the masses about the burdens and drawbacks of civil states could be met in no better way than by picturing to their eyes the drawbacks of a state of nature. These are properly understood by those who have accepted as a proverb the saying: "Were there no courts of justice every man would devour his neighbour".'<sup>2</sup>

There is here an indication of the problematic nature of the 'compromise' Pufendorf is supposed to have effected. On the one hand he asserts the sociability of man but on the other hand he does not appear to have separated his argument from that of Hobbes. Pufendorf maintains there is a natural obligation to form a 'friendly society' with all men, but he is evidently also prone to the belief that the

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1. *DJNG*, p.1330.

2. *ibid.*, p.157.

rationale of civil society rests in the fact it removes man from the miseries of the state of nature and will therefore appeal to his self-interest. Now there is in this ambivalence the making of a tension between the two points of view, the one asserting the primacy of obligations to humanity, the other asserting the primacy of obligations to those with whom we share a separate political society. And it is of particular interest here to consider the manner in which Pufendorf understands the role of a universal morality which survives the separation of men into distinct political societies. In what way then does Pufendorf bring a universal morality to bear upon the division of humanity into separate, sovereign states?

Let us begin by considering Pufendorf's view of the equality of men. Pufendorf advances an impressive account of human equality in the sense of the right of all men to be treated as equals. He maintains 'the very being a man is a state out of which arise certain obligations and certain rights as well'<sup>1</sup> and rejects slavery (an institution which 'merits complete disapproval') since 'all men by nature, antecedent to any act of man, are understood to be free'.<sup>2</sup> In the state of nature then men are free from the direction of other men given their inherent rights of equality and liberty. Nevertheless, as we have said, the state of nature is a moral condition and men are obliged to act through consideration and respect for the equality of their fellows. Man 'should think of himself as being put in the place of the other to whom something is to be done; and the other in turn set in his place'.<sup>3</sup> Now the fundamental obligation, which is attached to human nature itself, is to apply the same rules

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1. *ibid.*, p.8.

2. *ibid.*, p.342.

3. *Elements of Universal Jurisprudence* (Classics of International Law), Oxford 1931, p.240 (hereafter *EUJ*).

to all persons in like circumstances, an idea which has more recently been referred to as the principle of universalisability:

'Accordingly this too is one of the common duties of the natural law; that no one, who has not acquired a particular state, arrogate more to himself than the rest have, but permit others to enjoy the same right as himself.' <sup>1</sup>

In this way Pufendorf asserts that man has an obligation to be sociable, an obligation which embraces the whole of mankind which ought to 'cultivate universal peace' and 'exhibit the services of humanity' in all its social relations.<sup>2</sup> And these are the obligations which men acquire through being human.

Pufendorf rejects the view that universal morality alone will suffice to render human relations perfectly harmonious. He therefore argues for the necessity of particular agreements and contracts between men so that social life may be bettered. His general argument for particular pacts and agreements represents a crucial development in Pufendorf's discussion and is - if my interpretation is correct - fundamental to his theory of the state and international relations:

'The duties thus far set forth derive their force from that common relationship which nature established among all men even before any act was exchanged between them. But it is not enough to confine within such a circuit the duties which men owe each other. For not all men are so constituted that they are willing to do everything, with which they can help others, out of mere humanity and love, and without assuring themselves of some hope of receiving their equivalent; while it is often

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1. *Two Books on the Duty of Man and Citizen According to the Natural Law* (Classics of International Law), Oxford 1927, p.43 (hereafter *TBDMC*).
  2. *EUJ*, p. 242.

the case that the things which can come to us from others are of such a nature that we cannot have the boldness to ask that they be done for us gratis. It is often also not fitting for our person or lot that we be indebted to another for such a kindness, and so in many instances another person is unable to do us a kindness, and we are often unwilling to receive one, unless the other person receives its equivalent from us. Moreover, it often happens that other men do not know how they may serve our interests. Finally in view of the finite power of man being unable to extend itself to all persons at the same time and with the same force, it is surely reasonable that such actions as are not yet covenanted for by former obligations are bound over to those who, by agreements, have secured for themselves a prior right to them. And so, if mutual offices, the real fruit of humanity, are to be practised more frequently between men, and by a kind of set rule, it was necessary for men themselves to agree among themselves on the mutual rendering of such services as a man could not also be certain of for himself on the mere law of humanity. Therefore, it had to be determined beforehand what one should do for another, and what he should in his turn expect from another, and demand on his own right. This is, indeed, accomplished by promises and agreements.' <sup>1</sup>

The morality based upon a 'kind of kinship among men' requires the superimposition of contractual agreements on account of the following features. First of all, men are self-interested and care more for their own individual well-being than for their obligations to humanity; secondly, they have a powerful and 'sensitive self-esteem'<sup>2</sup> which makes them seek to establish reciprocal relationships wherein no man loses the dignity of independence; thirdly, individuals cannot assist all individuals to the same extent and should therefore come to particular agreements with a finite number of men; fourthly, men are incapable of precise knowledge of the courses of action most beneficial to each other and should therefore seek to enhance the moral order

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1. *TBDMC*, p.48.

2. *ibid.*, p.42.

among themselves through agreeing on a reciprocal basis to assist each other in specific ways; and fifthly, the moral law is not sufficiently precise to enable one 'to deduce from that one source all that men were entitled to receive to advantage from one another'.<sup>1</sup> For these reasons the rights and duties owed to men as men must be made concrete and given particular content through specific contractual agreements. However, these particular agreements are superimposed upon a morality for the whole of mankind, and obligations to the whole of humanity must necessarily survive any particular relationships men should freely enter into. The manner of its survival will however depend upon the particular emphasis Pufendorf wishes to give to each of these five features. If a great deal of emphasis is given to either the first or second features then one might expect an argument which understood the state in purely instrumental terms. The individual might consider himself obliged to co-operate only with the members of a particular community, his obligations to the rest of humanity taking on the status of a residual category. If the third feature is stressed, a man may enter into obligations with only a portion of mankind, but should a condition arise where the whole globe is more causally connected there would not be, at least on the face of things, a strong objection to a universal mode of co-operation whereby duties to humanity could be more readily respected. If the fourth and fifth features were to be emphasised there would again appear to be no obstacle to the establishment of a universal civil society whereby duties to humanity were specified, or if such establishment were impossible at any given time (through the difficulty of communications, for example) there would be no obstacle to its future

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1. *ibid.*, p.48.

establishment when favourable conditions obtained. We can say then at this stage that the relationship between particular contractual arrangements and surviving obligations to humanity will depend directly upon the particular emphasis Pufendorf chooses to give to each of these five features.

Pufendorf most certainly believed that men would wish to escape the state of nature and establish the condition of civil society in order that their rights and obligations could be given legal guarantee. Obligations to humanity certainly exist in the state of nature but there is no power giving man the precise guarantee that they will be fully respected; thus:

'... what we owe under the mere duty of humanity differs from what is owed by virtue of a compact or perfect promise especially in this respect, viz., that things of the former class are properly asked and honourably performed; but when the other has failed of his inhumanity, barbarity or harshness I cannot compel him to perform, by my force or that of a superior. This is my privilege however when he does not of himself perform what is due in accordance with a perfect promise or a compact. Hence we are said in the former case to have an imperfect right, in the latter a perfect right, as also to be obligated imperfectly in the one case, and perfectly in the other.'<sup>1</sup>

It is crucial to the understanding of Pufendorf's thought to stress that he held men were naturally bound to be sociable to one another; but given the malice that exists in some men it was essential to agree among themselves to form states for their own protection:

'For although the natural law commands men to abstain from inflicting any injury, still respect for that law cannot insure to men the ability to live quite safely in natural liberty.'<sup>2</sup>

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1. *ibid.*, p.49.

2. *ibid.*, p.104.

Some men will not wish to harm others; other men will be deterred from harming others because of fear; there is however 'a great multitude of those to whom every right is worth less':

'There is no one who does not strive to protect himself against such persons, if he loves his own safety; and that protection cannot be had more conveniently than by help of states.' <sup>1</sup>

Men are obliged to respect the obligations which are attached to humanity and to 'cultivate a friendly society' with one another. This is however an obligation to develop what Pufendorf wishes to call 'sociableness', but it is not an obligation to enter civil society as such:

'Here then it is not enough to say that man is by nature herself drawn into civil society, so that without it he cannot and will not live. For surely it is evident that man is an animal of the kind that loves itself and its interest to the utmost degree. When, therefore, he voluntarily seeks civil society, it must be that he has had regard to some utility that he will derive from it for himself. And though, outside of society with his kind, man would have been much the most miserable of creatures, still the natural desires and necessities of man could have been abundantly satisfied through the first communities, and the duties performed out of humanity or by agreement. Hence it cannot at once be inferred from man's sociability that his nature does tend exactly to civil society.' <sup>2</sup>

It is evident from this quotation that Pufendorf is stressing particularly the first of the five features mentioned above. Obligations to humanity, being insufficient in themselves, require the superimposition of freely entered contractual arrangements whereby self-interested men establish states among themselves for their common protection.

Now since everyone in the state of nature 'is understood to be

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1. *EUJ*, pp.104-105.

2. *ibid.*, p.103.

his own master, and subject to the authority of no man' the establishment of separate states requires the consent of men.<sup>1</sup> Moreover, every pact 'must concern something which a man was otherwise unable to require of me by the mere law of nature'.<sup>2</sup> Therefore, individuals are at liberty to select to join the states of their choice and to create particular political obligations which are not enjoined by the law of nature. In this way men superimpose particular political obligations upon the natural obligations which already exist:

'And so the law of humanity or charity, and the agreements of men among themselves, mutually supplement each other by way of their duties and guarantees, in that what is not or cannot be secured by charity, is secured by agreements, while in cases where agreements are not possible, charity offers its services.'<sup>3</sup>

Were Pufendorf to assign particular significance to the third, fourth and fifth features listed above, the nature of the supplement could point to the establishment of a universal civil society. Through the establishment of such a civil society the natural obligations to humanity might be more readily observed. However, Pufendorf in the following quotation asserts the primacy of individual self-interest in the formation of states:

'Furthermore, whatever I have done with another man in agreements, I have done not so much for his advantage as for my own, while in the duties of humanity the very opposite is the case.'<sup>4</sup>

Thus in addition to the duties to humanity, a man acquires through his own consent obligations to specifiable persons within a particular political association. And the second type of obligations, unlike the first, arise merely from considerations of manifest 'utility'. Now

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1. *TBDMC*, p.90.

2. *DJNG*, p.176.

3. *ibid.*, p.380.

4. *ibid.*,

there is a possible tension at the heart of Pufendorf's argument. On the one hand, he wishes to maintain that obligations to humanity survive its division into separate states. He maintains that:

'although he may have bound himself by a special bond to some particular society nevertheless, with all men, even those who live outside that society, he should cultivate universal peace as far as they may allow him to, and he should exhibit the services of humanity which he can conveniently.' <sup>1</sup>

On the other hand, the basis of the separate state is its manifest 'utility' as understood by its citizens. Since the bond between fellow-citizens is based upon reciprocal agreements whereby each satisfies his self-interest (understood in terms of legal guarantees), it is necessary to pose the question whether or not this association can exist alongside others without imposing 'sacrifices of value' upon them in order to increase its welfare. It is necessary to ask this question since it may be possible that by becoming obligated in particular ways to fellow-citizens, the individual may become the enemy of other men, outsiders - which was not the case before.<sup>2</sup> In order to understand in what way obligations to outsiders will survive the division of humanity into separate sovereign states, it is first of all essential to look a little closer at the nature of the bond which exists between fellow-citizens.

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1. *EUJ*, p.242.

2. Rousseau understood the formation of the separate state in this way. See S. Hoffman, "Rousseau on War and Peace" in *The State of War*, London 1965, p. 67.

## II.

The Case for the Separate Political Association

There are two factors to be considered in this section. It is important to give an account of Pufendorf's argument for sovereignty and of his defence of the location of sovereignty in a separate political association. Let us consider his argument for sovereignty first of all.

Sovereignty is desired since the law of nature does not provide an adequate basis for either deriving or protecting the rights and duties of men. Men must therefore proceed to make specific agreements among themselves and submit to a higher authority which is capable of enforcing them. Men therefore leave that condition 'where it appears that anyone can free himself from such obligations as rest only upon tacit agreement, if he expressly declares that he is not willing to be bound by them and that he will not complain should others also not observe them towards him'.<sup>1</sup> Through submission to sovereignty men leave the condition where their obligations are merely 'imperfect' for a condition where their obligations are 'perfect' since they are enforceable. And obligations only become perfect through the recognition of the supremacy of the sovereign:

'For what order can there be which does not look toward some first principle? And this principle is all-important, and designed to control all things, that is, it is government, or the highest power in society, and unless this is present, no society is sought by any being which makes use of reason and discourse.'<sup>2</sup>

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1. *DJNG*, p.228.

2. *ibid.*, p.164.

Now it may be thought that beings using their 'reason and discourse' might wish to submit to an agency with sovereign jurisdiction over the entire world - should certain empirical conditions hold. However, in arguing that the observation of agreements cannot be left to free men Pufendorf maintains that 'protection cannot be had more conveniently than by the help of states'.<sup>1</sup> Here Pufendorf has made the move, which was remarked on earlier, from the view that the moral order must be enhanced through the establishment of government to the view that men ought to live in separate, sovereign states.<sup>2</sup> Unlike contract theory generally, however, Pufendorf presents us with a number of arguments for the division of mankind into separate, sovereign states. To understand his arguments it is necessary to return to his idea of man in the state of nature.

It is often wondered if the state of nature (and the social contact whereby men enter civil society) is a purely heuristic device for speculative purposes or an attempt to actually depict unrecorded historical events. As far as Pufendorf is concerned humanity for most of its history has been divided into separate groups. Pufendorf accepts the Christian doctrine that all men are descended from the marriage of a 'single pair' - hence their common kinship.<sup>3</sup> He therefore rejects the view that there ever was an actual state of nature comprising more or less solitary individuals. All men have either been subject to the same paternal power or organised into separate family groupings. Pufendorf writes:

'a state of nature never actually existed,  
except in some altered form, or only in

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1. *TBDMC*, p.105.

2. See above, pp.17-18.

3. *DJNG*, pp.162-163.

part, as when, indeed, some men gathered with others into a civil state, or some such body, but retained a natural liberty against the rest of mankind; although the more groups there were in this division of the human race, and the smaller their membership, the nearer it must have approached a pure state of nature. So when at first mankind divided into different family groups, and now have divided into states such groups live in a mutual state of nature, insofar as no one group obeys another, and all the members have no common master.'<sup>1</sup>

Pufendorf imagines men splitting into separate family groups at an early stage in their history with the obligations of kinship weakening. Nevertheless, as we have seen, there are obligations of humanity which embrace these groups although the absence of their enforcement creates an incentive to establish sovereign authority. According to Pufendorf the patriarchs abandoned the state of nature so that they 'might fortify themselves against the evils which threaten man from man'.<sup>2</sup> We are to imagine then a condition in which men as family members consent to belong to a political association with a sovereign head so that their security may be better protected.

Let us recall the Hobbesian element in Pufendorf's account of sovereignty. It is understood to be the most satisfactory means whereby men protect themselves and is therefore considered simply in instrumental terms. Since men are not obliged to live in states on account of natural obligation they are at liberty to choose whether or not to submit to a sovereign power. Pufendorf however believes not only that it is rational to seek the protection of the state but that it is rational to seek the protection of the separate state. He maintains that 'the most efficient cure had to be sought from man

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1. *ibid.*, p.163.

2. *TBDMC*, p.104.

himself, by joining into states and establishing sovereignty'.<sup>1</sup>

We must assume, since men are at liberty to form political associations in order to promote their own interests, that men understand that these will be promoted without the establishment of a universal civil society. The fact a man chooses to live in a separate political society surely indicates his belief that his interests would not be better promoted by associating with every other man on the face of the earth. What this would appear to amount to is the belief that the goal of sovereignty, which is of the greatest benefit to man, can only be attained at the local level. Men are concerned with security, which Pufendorf understands as a condition where obligations become perfect through the presence of a sovereign power. Pufendorf evidently believes that self-interested men who judge co-operation in largely instrumental terms will choose to live in separate, sovereign states. Let us now consider some of the principal arguments used by Pufendorf in reaching this conclusion.

I propose to consider three areas of argument in discussing Pufendorf's remarks about the rationality of the separate state. In the first place I shall consider his dismissal of the establishment of a universal civil society for the purpose of satisfying economic wants. I propose then to consider his view that the sheer size of the human race makes it impossible for its association into a single political community. And finally I propose to consider an argument that the process of associating at the international level would enable men to live in accordance with the obligations they have simply as human beings. It will be noted in the course of this argument that Pufendorf's argument for the separate state necessarily involves

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1. *DJNG*, p.959.

his taking an internal point of view of obligations to the state and to the rest of humanity.

If it is rational to seek associations which will satisfy our interests, should men attempt to find an international association to increase their benefits? Individuals might benefit from membership of larger associations (larger, that is, than the separate state); and separate states themselves might derive benefits from establishing or working towards the establishment of a more inclusive political association. If we are to understand by these remarks that men might be economically advantaged by belonging to more inclusive political associations, then Pufendorf will reject the argument. He does not consider economic interests as a valid reason for wishing to enlarge the political association. Pufendorf is 'convinced that want was neither the only nor even the main cause for the establishment of states'<sup>1</sup> and maintains that 'there are many states today which seek abroad the means to supply their needs or pleasure, and yet they do not feel it necessary to combine with those with whom they trade into one state'.<sup>2</sup> Therefore, if we were to understand interests as economic interests it is clear that men should not judge and re-judge their political associations in terms of their instrumental value for their economic interests. Pufendorf would presumably remain unconvinced by modern opponents of the state who take the view that the satisfaction of the economic interests of the individual could be attained more easily through international institutions - not because Pufendorf cares nothing for the state's ability to protect the economic welfare of its citizens, but because institutions which relate men

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1. *DJNG*, p.958.

2. *ibid.*

economically are inferior to institutions where men are absolutely agreed on the fundamental goal of their subordination to a sovereign power. Man's most fundamental interests are satisfied by the guarantees afforded by the sovereign power. Pufendorf does not understand man as homo economicus and would regard him as foolish were he to reconsider his allegiance to the state on the grounds that his economic interests would be maximised by its incorporation in a larger political entity. Pufendorf does not understand man in these terms but of course he does not consider that states might become obsolete or less satisfactory means of promoting the interests of individuals.

It is certain that Pufendorf thought that the legal bond was qualitatively different from economic bonds between persons. Nevertheless it is equally obvious that any legal and political association would have to be capable of withstanding economic crisis and external attack. For these reasons a rational individual will want to be sure that any state he proposes to join can be viable. Legal guarantee may be the primary reason for associating politically, but it is only possible within an association capable of satisfying some equally important individual concerns. And indeed Pufendorf recognises this factor is of importance to potential contractors. He maintains that 'the just size'<sup>1</sup> of the state is related to the level of power required to guarantee the state's security:

'the agreement of two or three cannot afford that sort of security against other men. For it is easy for so many to conspire to overthrow these few, that they can ensure for themselves a perfectly certain victory over the others; and the hope of success and impunity will give them confidence for the

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1. *ibid.*, p.968.

attack; therefore to this end it is necessary for a considerable number of men to join together that the addition of a few to the numbers of the enemy may not be of appreciable moment in helping them to victory.' <sup>1</sup>

Now in the formation of any political association groups of contractors will have 'to compare themselves in order to know themselves' as Rousseau would put it.<sup>2</sup> Pufendorf asserts that 'the just size of a state should be measured by the strength of its neighbours', and so it must be in that condition where men first establish separate political societies. The state must make an effort to be secure and it is necessarily through power that it will be able to survive as an independent entity. It is not surprising that although 'mutual benevolence' is a factor in the establishment of states 'others afterwards may be induced to join them out of fear'.<sup>3</sup> Since power is vital in the considerations of potential contractors the establishment of separate states must be a hazardous business. Sovereignty may be 'sacrosanct', as Pufendorf wrote, because it puts an end 'to the infinite miseries of the state of nature'.<sup>4</sup> Nevertheless, it seems likely that the process of establishing separate sovereigns could provoke considerable uncertainty, disorder and conflict. It is arguable that men would experience great insecurity while states were being established lest they should be unable to find for themselves a political association of their own choice capable of withstanding external attack. It is possible that men would be in constant motion first establishing one society for their security only to dissolve it again should it be unable to be superior to or equal with neighbouring

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1. *TBDMC*, p.106.

2. "The State of War", in Forsyth *et.al.*, *op.cit.*, p.171.

3. *EUJ*, p.237.

4. *DJNG*, p.163.

societies. Pufendorf appears to recognise that the move from the state of nature to the condition of civil society would be a difficult one in that some men might have to join certain states simply through fear. But he does not recognise what is involved in asserting this, namely that the transitional step between the state of nature and the condition of civil society might give rise to greater 'misereries' than had ever been experienced in the state of nature, or indeed that the move might not be possible at all, or possible only through the use of force. Pufendorf is insufficiently sensitive to the problems created by the move from the state of nature. He does not appear to have recognised - indeed it appears to go unrecognised until Rousseau turned his attention to international relations - that men were exchanging one state of nature for another, even more treacherous. However the dilemma that men might experience in moving from the state of nature to the condition of civil society appears to go unnoticed despite the fact that the configuration of power is of fundamental importance to men involved in the establishment of separate, political societies.

If the problems of establishing separate political societies are of enormous proportions might men fare better by seeking their legal guarantees within a political association as inclusive as possible? It is clear that Pufendorf believed separate states could compensate for their deficiencies through international trade and co-operation, but the possibility of a universal civil society is sharply rejected:

'The numbers of the human race and the infinite multitude of transactions have not allowed men to unite into one body, forasmuch as that one body, in such large dimensions, would be threatened through internal disturbances by

the same inconveniences as those which exercise the human race, and almost greater ones, divided as the human race is, into a large number of smaller governments.' <sup>1</sup>

While it may be possible to enter into all manner of economic relations at the international level, Pufendorf does not believe it is possible to establish a global sovereign. It would appear that Pufendorf is making a point now more or less taken for granted, namely that a world government might abolish international wars only to usher in civil ones. At the same time the argument suggests that the sheer complexity of international life is the ultimate barrier to the establishment of sovereign institutions at the global level.

Now it is undeniable that there are formidable, even insuperable barriers to the development of a global sovereign. It might be regarded as essential, if only for administrative convenience as well as for democratic control and sense of community, for men to live in separate states. Pufendorf implies that the division of men into separate states is for the good of all. The state:

'is considered the most perfect society, and is that wherein is contained the greatest safety for mankind, now that it has grown so numerous.' <sup>2</sup>

It was stated earlier that Suarez had advanced a substantially similar argument, although it seemed there was no intellectual barrier in Scholasticism to prevent the replacement of a world of sovereign states with an international authority should empirical conditions allow.<sup>3</sup> In other words, the argument that the world is divided into separate states as a matter of administrative convenience is quite compatible with the position that states should ground their relations

1. *EUJ*, p.274; see also *DJNG*, p.169.

2. *DJNG*, p.949.

3. See above, p.51.

on justice and seek to create conditions whereby international agencies might be established in the future. But it becomes clear from the unfolding of Pufendorf's argument that the state is not merely a temporary administrative convenience which may be superseded, but which is at any rate obliged to conduct itself in accordance with universal moral standards. An argument of this kind would understand the division of mankind into separate states as merely a transitional stage. It would assert in addition the value of an association which embraced the whole of mankind or brought principle to bear on those 'transactions' which might otherwise go unregulated.

Pufendorf's argument for the separate, sovereign state is not a negative one, or not mainly a negative one, which rests simply upon the administrative convenience of the state. If the sovereign state exists simply because no higher association is possible, it would still be possible to take the external point of view and argue for the eventual transformation of the state-system. His argument however points to the imperfect nature of obligations to humanity and asserts the priority of obligations to fellow-citizens. Now it is already apparent from Pufendorf's account of the move from the state of nature to the condition of civil society that there will be much uncertainty and fear, and (although Pufendorf does not say this) a strong possibility of duplicity and coercion. It would not seem to be the case from Pufendorf's description of the establishment of sovereign states that men are prepared to assist one another to set up their political associations. There would seem to be no need for contractual arrangements between groups whereby each promised to assist the other should the condition of viability fail to result. Rather, in the search for a viable political society men are guided

by the objective of associating with others in a sufficiently powerful state. It might be argued that if this is the case obligations to humanity have little substantial value. Indeed the reason why Pufendorf's argument for the separate state is not negative is that he believes there are more positive, particular causes for establishing states. And in explaining these causes to us Pufendorf deliberately underplays the idea of obligations owed by men to each other simply as men.

Pufendorf is aware that obligations to humanity have been overlooked or minimised in accounting for the rise of separate states. Indeed he does raise an objection which could be brought against his own argument:

'Now as for the further objection: 'If man loved man in the course of nature, that is, as man, no reason could be given why each single individual should not love each other single individual, as being equally a man, or why he should the rather frequent those in whose society honour and advantage are accorded him beyond others.' To meet this it should be known that all men, indeed, have been brought together by the similarity of their nature towards one another, so that in actual fact that general friendship resulting from a common nature ought also to be common to all, unless someone, perchance, has by his crimes made himself unworthy of it. Now, in truth, a number of circumstances are added to that common nature which are responsible for one loving this one more than that one; suppose for example, that there was between them a greater harmony of dispositions in regard to special inclinations, or else that their birth-places were not far apart. But then and only then could no reason be given, if all men had grown out of the earth together like fungi, without any relationship to one another, or if they had among one another a similarity of dispositions at every point. But such a state of men has never existed, so no conclusion can be drawn from supposing it, contrary to what the actual facts show.'<sup>1</sup>

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1. *EUJ*, p.236; see also *DJNG*, p.213.

There would appear to be two reasons for the legitimacy of the division of mankind into separate civil societies. Pufendorf maintains:

'That definite individuals unite to form a definite kind of society comes about either in consequence of a special harmony of dispositions or of other qualities, or else because they imagine that they can obtain some special end better with these persons than with those. Now it is by no means necessary for all men to coalesce into one society in which all are equal to one another; but it is sufficient if the same persons get together in several and distinct groups, which are, nevertheless, by no means altogether mutually unsociable, but refrain from unjust injuries towards one another, and, as far as they are permitted by closer obligations, share with one another their advantages and blessing.'<sup>1</sup>

Pufendorf appears to believe that the diverse characteristics of men should find expression in the fragmentation of mankind into several civil societies. Men have the right to choose which societies they will belong to:

'Such societies nature has altogether wished to have among men, although it has been left within the free choice of men, and so is to be determined by pacts, just what individuals are to be united to what society, or who is to be set at their heads for governing them.'<sup>2</sup>

It has been noted previously that men are at liberty to establish civil societies in accordance with their estimations of their self-interest, a point which is reinforced in the above quotations. For Pufendorf obligations to humanity do not require the formation of a universal civil society and they do not appear to require any co-operation to ensure that separate states are established in accordance with just principles - whereby no man is treated unequally (by, say,

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1. *EUJ*, p.234.

2. *ibid.*, p.235.

having his level of security diminished when states come to be established). Pufendorf asserts that men have the liberty of establishing civil societies for the protection of their interests; but he also wishes to maintain that men have natural obligations to share 'advantages' with each other. It is evident that these two objectives are not entirely consistent. The heart of Pufendorf's argument favours enabling self-interested men to choose the civil societies most likely to advance their own interests and most likely to contain men of like mind. For this reason it is necessary to conclude that Pufendorf has compromised the idea of a natural morality in his argument for the separate, sovereign state.

Pufendorf rejects the idea that duties to humanity could in principle be the bases of an international society and he does not accept that the continuation of the process of association at the international level would enhance the moral order that exists among men. Of fundamental importance to Pufendorf are the contractual obligations or reciprocal arrangements reached by individuals pursuing their own advantage. For this reason the individual is obliged first and foremost to the society of which he is a member. His particular society gives him the most important guarantee since fellow members have also submitted themselves to one sovereign power. Outsiders may be fellow men, and may be due respect simply on that account, but it is impossible to hold them in the high esteem due to fellow-citizens since they have not agreed (or are part of) a civil society where the sovereign is authorised to enforce the agreements which may exist among them. Pufendorf will argue then that a man is more obliged to whoever has associated with him so that each may protect their rights; he is more obliged to this man than to one who is

prepared to keep their relationships at the uncertain level of imperfect obligation. This argument for the primacy of obligations to fellow citizens accounts for Pufendorf's failure to apply obligations of humanity to the establishment of separate, sovereign states and to the conduct of their external relations. Pufendorf will neither reject the existence of obligations to humanity nor adequately apply them to man's social and political relations. He does not consider that obligations to humanity might not permit men the liberty of contracting freely with each other to form a separate state without paying any significant attention to the interests of those who will be excluded from membership. Nor does he consider that their freedom of contract might be valid only if consistent with obligations to humanity. Rather, he concentrates upon the 'particular causes' which lead men to form 'particular and more limited societies'.<sup>1</sup>

Of the five features discussed earlier Pufendorf selects the first as the most important.<sup>2</sup> The appeal of sovereignty to self-interested men carries particular weight in the argument for the separate state and in the argument for the priority of obligations to insiders. Pufendorf states that 'no hope need be held out for continued agreement and concord in a great group of men, when there is no sovereignty'.<sup>3</sup> He states also that 'the height of mortal achievement has been attained when security rests upon the strength of the entire state, and when one recognises no man on earth to be his superior'.<sup>4</sup> It is of no surprise then that Pufendorf should think that:

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1. *DJNG*, p.213.

2. For these five features see above, pp. 118-119.

3. *DJNG*, p.971.

4. *ibid.*, p.163.

'A good citizen's duty towards the whole state is to have nothing dearer than its welfare and safety, to offer his life, property and fortunes freely for its preservation, to exert all the strength of his mind and industry to add to its fame and promote its interests.'<sup>1</sup>

Nor is it surprising that for the sovereign 'the welfare of the people is the supreme law'.<sup>2</sup> The self-interested individual, then, who regards sovereignty as the major prize to be obtained, will hold obligations among fellow citizens higher than obligations to outsiders. For him the separate sovereign state is the main guarantor of his security and the most important focus of his loyalty.

### III

#### The Right Relationship of Sovereign States.

In the state of nature, the condition of natural liberty, man is free to decide with whom to associate and in what kind of society. Men are not obliged to consult with all others (or all others likely to be affected) in these matters. Now had men in the state of nature formed a moral community where the laws of nature were binding upon them it would have been possible to argue that all men had the right to be involved in the decision to establish a separate, sovereign state.<sup>3</sup> Men could have argued that the existence of such an association, probably armed and claiming the right to acknowledge only its own will, posed a direct threat to their own interests and welfare. Therefore potential contractors should consult with them so that

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1. *TBDMC*, p.144.

2. *ibid.*, p.121.

3. As indeed Filmer had argued, see above pp. 17-18.

their separate association did not harm the substantial interests of outsiders in contravention of the obligations owed to each other as men. Similarly, potential outsiders should not stand in the way of men wishing to establish the legal machinery to enforce obligations among themselves. Men could argue, however, that any group of men, which was prepared to take a unilateral decision to establish a sovereign state, was already in the process of infringing its obligations to the rest of mankind. But the liberty of a group of persons to detach themselves from the rest of mankind by forming a territorially limited political association is indicative of a more general factor. For if men are free to choose to live in a separate, sovereign state without giving consideration to the interests of others (or without consulting others in the process of establishing their state) then they are free presumably to conduct their external relations without consulting the interests of outsiders. The manner in which the state is established is a certain guide to its general orientation to the conduct of its external relations - and both are indicative of the way the social world is differentiated into insiders and outsiders.

When Pufendorf argues that men have duties under the natural law which they are obliged to observe in the establishment of a civil society he is referring to the fact that no civil society can be created without the consent of its citizens.<sup>1</sup> It is contrary to the natural liberty and equality of a man to compel him to submit to a government not of his own choice. While this carried the desirable

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1. When men come to form a civil society they are 'still subject to the natural law, and so were obligated, of course, to draw up only such rules of sovereignty and civil disobedience as were agreeable to that law and to the lawful ends of states'. *DJNG*, p.1068.

connotation that the individual citizen has rights against the state, it also implies that outsiders have no fundamental claims upon contractors when they establish their political society or with regard to the manner in which they choose to exercise their sovereignty. For this would be to challenge the liberty and equality of other men and so to infringe one of the fundamental obligations men owe each other.

The sovereign state receives its legitimacy from insiders, or more precisely from the consent of its citizens. According to Pufendorf the sovereign state is established through the operation of a threefold contract. And at each level the contract takes place between a limited portion of mankind, that portion which wishes to form a separate association. In the first place it is necessary for free men to consent to form a society with each other. Each man agrees with the others that he is 'desirous of entering into a single and perpetual group, and of administering the considerations of their safety and security by common council and leadership.'<sup>1</sup> Having agreed to form a society it is necessary for them to select together the nature of the government which will regulate their activities. Therefore, in the second place, men must choose whether to submit to the will of the majority regarding the kind of government to have or to remain in the state only if their particular choice of government is selected. The individual is at liberty to withdraw from the society if it does not decide to create the kind of government he would prefer to have. In the third place, men have to decide upon the individual or body that is to become 'the government of the group'. When this third contract has been completed the 'finished state' exists.<sup>2</sup>

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1. *ibid.*, p.974.

2. *ibid.*, p.975.

The sovereign receives its legitimacy from members of the group itself, a factor which will have a decisive influence upon the relations between sovereigns. Pufendorf maintains that 'just as a king owes his sovereignty to no one outside his realm, so he need not obtain the consent and approval of other kings and states, before he may carry himself like a king, and be regarded as such'.<sup>1</sup> As there is no 'external' factor in his legitimacy it would be an 'injury for the sovereignty of such a king to be called in question by a foreigner'.<sup>2</sup> Sovereigns confront each other as equals without a superior and so a new state of nature results. And the state of nature which 'really exists' is none other than the condition which 'exists between different states'.<sup>3</sup> The true state of nature comprises free and equal sovereign states which cannot be bound to recognise political obligations without their consent. If the state could be bound without giving its express consent then its internal legitimacy, based upon the consent of its citizens alone, would be violated.

It has already been noted that Pufendorf considers that the security provided by separate states renders international government unnecessary. The separate state is insulated from outsiders to the extent that it is self-sufficient economically and politically. Since the primacy of duties to itself appears to prevent duties of humanity from posing any threat to its independent nature, the state has no need to recognise agreements which are not to its advantage. Perfect obligations exist on account of the authority of the sovereign, and since states do not recognise a sovereign no perfect

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1. *ibid.*, p.1009.

2. *ibid.*

3. *TBDMC*, p.90.

obligations are found among them. The agreements of states, either through custom or treaty, do not constitute binding international law. As perfect obligations depend upon the authority of the sovereign power, the mere agreements of states can only be temporary pacts which the individual state is free to revoke. There is no *ius gentium*, no binding international custom, as there was for Suarez:

'Nor, in truth, are those sufficiently accurate who speak of laws as certain common agreements ... since thereby they confuse a law with a pact.' <sup>1</sup>

And to show that these common agreements have no authority or obligatory power, Pufendorf states that they:

'do not rightly constitute special species of law, since, forsooth, the nations have those rights in common with one another, not from some agreement or mutual obligation, but they have been established by the special order of the individual legislators in the individual states, and so can be changed by one people without consulting others, and are frequently found to have been so changed.' <sup>2</sup>

The agreements between states add nothing to the natural law, and, since they are not commanded by a common sovereign, states are merely imperfectly obliged to obey them. Indeed, as 'the welfare of the people is the supreme law' the sovereign power can revoke such agreements as it wishes when they are understood to have outlived their usefulness.

It is not surprising that Pufendorf's account of international relations should lack any idea of moral progress. As we saw earlier, the internal point of view holds the opinion that progress for man can be accomplished within the sovereign state, while the state-system itself remains relatively static. It could be argued that Pufendorf's

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1. *DJNG*, p.147.

2. *EUJ*, p.165.

lack of interest in progress at the international level is doubly deficient. In the first place, a serious commitment to duties of humanity should have involved Pufendorf in a discussion of what states might do to improve the nature of the relations between them. And he might have considered the development of customary rules as one of the ways in which states could bring about the rule of justice not only within but also between states. In the second place, it is not at all clear that the new state of nature will abolish the miseries of the old. In that event, it might be in the interest of all states to develop rules in the course of their relations which might then place limitations upon their rights of action. It is evident that Pufendorf offers no meaningful account of the means whereby states might produce through their own actions a more inclusive moral community.

On the other hand, Pufendorf is aware of the need for some states to co-operate with others in order to make good their own deficiencies. States may co-operate not to bring moral principles to bear upon their relationships or to improve the nature of the international system as such, but to acquire certain particular goals for themselves. To discuss this it is necessary to discuss the idea of 'systems of states' which illustrates Pufendorf's view of the conditions and parameters of international co-operation.

Pufendorf begins by stating that 'we speak of systems of states when more than one are so held together by some special and strict bond that they appear to form one body'.<sup>1</sup> Although the state is regarded as supreme, Pufendorf believes that 'it is possible with

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1. *DJNG*, p.1043.

moral bodies for several to have but one head'.<sup>1</sup> Now this concept does not serve to indicate that various states have pooled their sovereignty to become no more than mere provinces in some '*civitas maxima*'. But their involvement in a system of states does require that they revoke the right of unilateral decision in matters which are of interest to the system as a whole. One of the obligations of 'membership' is the willingness to consult and seek the consent of others within the arrangement. It is important to ask why it is that the sovereign state should be party to an arrangement which appears to be in conflict with its essential nature. To answer this question it is essential first of all to distinguish between two types of state-system:

'We apprehend that there are two species of systems properly speaking; one where two states have one and the same king; the other where two or more states are joined by a pact into one body.'<sup>2</sup>

In the first system 'the individual states remain entirely distinct' while the king lives but when he dies 'there returns at once to each of the peoples the right to decide as it will on its form of government' and to do this 'without consulting the others'.<sup>3</sup> In this system the individual states retain sovereignty over their affairs, although their form of government is linked with the system as a whole and cannot be changed until the head dies. The second 'species' is rather different in nature:

'The other kind of system is that which consists of several states bound to each by a perpetual treaty, and which is usually occasioned by the fact that the individual states wished to preserve their autonomy

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1. *ibid.*, p.1045.

2. *ibid.*, p.1044.

3. *ibid.*, p.1045.

and yet had not sufficient strength to repel their enemies. In this treaty there is commonly an agreement that one or other part of the supreme sovereignty should be exercised at the consent of all.'<sup>1</sup>

Here Pufendorf simply takes account of the fact that one state may not be able to secure a condition of viability for itself but may simultaneously desire to retain its sovereignty:

'For it hardly seems likely that the affairs of several states could be so closely interwoven that it would be to the advantage of one and all of them that no part of the supreme sovereignty be exercised without the consent of all. Or if there were any such, it would have been more to their advantage to unite in one state than to be joined only by treaty.'<sup>2</sup>

Co-operation to make up for the state's deficiencies does not require the formation of a new political association since, as we have seen, mere want in Pufendorf's view does not account for the foundation of political society. International co-operation exists to reinforce the state-system rather than to replace it and it is certainly not a method of attempting to create conditions whereby a move beyond the state-system would become possible. Nevertheless the system of states should have some jurisdiction over the activities of states as the following remark indicates:

'if any controversy arises between the allies themselves the others who have no direct interest in it may at once interpose as mediators, and not allow it to come to open warfare.'<sup>3</sup>

It may also be useful to have a 'permanent council' to 'treat with the ambassadors of foreign states, and conclude negotiations with them in the common cause of all the confederates'. In these ways separate, sovereign states can form 'one body'.<sup>4</sup>

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1. *ibid.*, pp.1046-1047.

2. *ibid.*, p.1047.

3. *ibid.*

4. *ibid.*, p.1049.

To surrender sovereignty to the system of states would be to give the alliance a perfect right to enforce any obligation violated by a sovereign state. Pufendorf, however, is unprepared to allow that a system of states is entitled to take away the rights of states to decide the extent of their obligations. Any 'permanent council' which may exist cannot be empowered to act contrary to the will of any of the associates. Its power can be no greater than that 'delegated by the confederates':

'For the liberty of a state, which is nothing other than the power to decide on its own judgment about matters pertaining to its self-preservation, is unintelligible in case it can be forced by another, acting with authority, to undertake something against its will.'<sup>1</sup>

'The individual members wish to be led' to a course of action 'not by authority but by reason alone'. Associates will allow the system of states this much: that 'I will not exercise my right unless you are willing'. What they will not allow the system of states is a principle which maintains 'You will have the right to require me to exercise my right, even though I be unwilling'.<sup>2</sup> For this reason the system of states as understood by Pufendorf is best described as a *Gesellschaft*.<sup>3</sup> Accordingly the state cannot be obliged to remain

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1. *ibid.*, p.1050.

2. *ibid.*

3. According to Talcott Parsons, in such an association:  
'The relationship is to be regarded subjectively as a means by which the individual attains his own ends. The motive for entering into such a relationship is that it is the most efficient means to his end that is available in the situation; ... in any new situation that may arise the presumption is against the inclusion of a new obligation unless it can be shown to be 'in the contract' as implied in its terms. The burden of proof is on him who would require the performance of an obligation not obviously and explicitly assumed.'

T. Parsons, *The Structure of Social Action*, vol.2, New York 1968, 'Note on *Gemeinschaft* and *Gesellschaft*', pp.686-694.

as part of the association if the situation changes so radically that the association is no longer the most effective means of promoting the state's interests:

'Such systems are dissolved when some of the confederates voluntarily leave the league and administer their states to themselves, which usually happens from the consideration that they hope for more advantage from separation than from union, and that they feel their allies to be more of a burden than an assistance.'<sup>1</sup>

It is essential that Pufendorf consider international co-operation in purely instrumental terms given his understanding of the separate, sovereign state. For Pufendorf the basic fact about man is his desire to hold on to his liberty in the state, 'because this sovereignty is supreme, that is is not dependent upon any superior man on earth; its acts cannot for that reason be made void at the discretion of any other being's will'.<sup>2</sup> It is inevitably the case that Pufendorf's theory of man and the state should give rise to a merely instrumental idea of the value of international co-operation.

#### IV

Let us conclude this section with a brief discussion of Pufendorf as a theorist of the internal point of view. Pufendorf's theory of the state and international relations betrays all the features of this point of view. It holds that the rights of the ego-centric state are supreme; it argues that the obligations of the citizen are due first and foremost to the society in which he lives while the sovereign is obliged to consider the welfare of society as the 'supreme law'; and finally there is ample evidence to show that

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1. *DJNG*, p.1051.

2. *ibid.*, p.1055.

Pufendorf considered international co-operation to be a means whereby any separate state could make good certain deficiencies through certain reciprocal arrangements with others. Pufendorf's theory of the internal point of view belongs to that special variety which holds that there are fundamental moral obligations which all men owe to each other. The separate state is not entitled to do as it pleases since there are obligations due to other men simply on account of their humanity. Nonetheless, the state, as it is portrayed by Pufendorf, is egocentric. It is created through the consent of its citizens in order to promote their interests. And, as has already been noted, Pufendorf does not appear to consider to any satisfactory extent the injury that may be done to other men either in establishing the separate state or in conducting its external relations once it has been established. If Pufendorf's idea of a universal morality were taken more seriously states would be obliged to co-operate with each other in order to protect each other's interests. Pufendorf fails to provide any serious account of the obligations between states under the moral law. His discussion of the right relationships between separate, sovereign states focusses neither on the need to promote the application of universal morality nor on the obligations of states to improve the international environment which affects them all. It focusses rather upon some minimal level of peaceful co-existence with the option of instrumental co-operation to provide egocentric states with some of the economic or political objectives which they are unable to secure for themselves. And, as we have seen, this is an essential characteristic of the internal point of view.

It is arguable that alongside Pufendorf's argument for the

separate state lies a universal morality which is the basis of a quite different account of international relations - an account which has been described as the external point of view. As Pufendorf does not exploit the resources of this ethic at all satisfactorily (or develop its implications for the nature of international relations) he is open to the charge of failing to harmonise two separate perspectives. And since these two perspectives are not harmonised there is at the heart of Pufendorf's account of the state a tension which cannot go unnoticed. For Pufendorf wishes to argue that there is a moral law which governs all men. He wishes to assert that it is not sufficiently precise to be the ground of all political relations. He also wishes to assert that men are not always able to know how to help each other and are not able to help all men equally well. Nevertheless, he clearly wishes to argue that a universal morality does exist despite these difficulties. On the other hand, Pufendorf argues that men are concerned first and foremost with their own interests, that they find a dignity in independence and prefer to ground their relationships on contractual and reciprocal principles which preserve the individuality of the separate parties. Pufendorf does not employ his universal morality in order to ask how far individuals are entitled to consider their self-interest first of all or how far one man may be obliged to another without the existence of contract and reciprocity. And it is for this reason precisely that we have to conclude that Pufendorf fails to harmonise these two elements in man and has failed therefore to give a satisfactory account of the state and international relations.

CHAPTER SEVEN.

Vattel's Theory of the State and  
International Relations.

I

Vattel, like Pufendorf, wishes to argue that there is a morality which survives the division of humanity into separate, sovereign states. Nevertheless, we shall discover once again an argument for the primacy of obligations to separate, sovereign states. Vattel's theory differs in important respects from Pufendorf's however. The latter's theory is defective in that it provides an alleged justification for the egocentric state. He does not pay sufficient attention to the fact that as each state is equal (since it derives its legitimacy from the consent of its subjects), and as all men have obligations to assist each other, states themselves should attempt to improve each other's conditions as far as is possible. It is to Vattel's credit that, using similar philosophical resources to those of Pufendorf, he provides an account of the obligations which all states have as members of 'the natural society of nations'.<sup>1</sup> Equal states have obligations to protect the natural order of states and to assist each other to become more 'perfect'. Now this is in itself an important step beyond Pufendorf. However, we shall discover that Vattel's theory generates its own difficulties, most notably in his desire to 'subjectivise' the moral law in order to allow sovereign states to be the sole judges of their ability to carry out their international obligations. It will be necessary in

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1. Vattel, *The Law of Nations*, Washington 1916, p.6.

the subsequent chapter to discuss Kant's account of the moral law and its bearing upon international relations. For if Vattel represents an improvement upon Pufendorf by arguing for obligations to the 'natural society of states' his own subjectivising of the natural law is particularly defective. It will be important then to consider the approach of a theorist who does not dilute the moral law and who produces as a result a radically different account of the state and international relations. We shall discover this more radical and, as I shall argue, more correct theory of international relations in the writings of Kant. However, let us approach Kant through a more detailed discussion of Vattel's thought.

Vattel resembles Pufendorf in many respects but most of all by presenting an individualistic theory of the state. He too begins with a state of nature in which individuals are unable to 'perfect' themselves and he proceeds to offer an ascending conception of government whereby men establish a state by means of a contract in order to improve their condition. Furthermore, Vattel agrees with Pufendorf that there is not the same necessity for a world-wide contract in order to form a universal civil society:

'It is true that men, seeing that the Laws of Nature were not being voluntarily observed, have had recourse to political association as the one remedy against the degeneracy of the majority, as the one means of protecting the good and restraining the wicked; and the natural law itself approves of such a course. But it is clear that there is by no means the same necessity for a civil society among Nations as among individuals. It cannot be said, therefore, that nature recommends it to an equal degree, far less that it prescribes it. Individuals are so constituted that they could accomplish little by themselves and could scarcely get on without the assistance of civil society and its laws. But as soon as a sufficient number have united under a government, they are

able to provide for most of their needs, and they find the help of other political societies not so necessary to them as the State itself is to individuals.' <sup>1</sup>

In addition, Vattel is clearly of the mind, as was Pufendorf, that states are subdivisions of the human race, and that men, while associated in particular societies, remain tied to outsiders by virtue of their moral obligations:

'Since the universal society of the human race is an institution of nature, itself, that is, a necessary result of man's nature, all men of whatever condition are bound to advance its interests and to fulfil its duties. No convention or special agreement can release them from the obligation. When, therefore, men unite in civil society and form a separate state or nation, they may, indeed, make particular agreements with others of the same state, but their duties towards the rest of the human race remain unchanged; but with this difference that when men have agreed to act in common, and have given up their rights and have submitted their will to the whole body as far as concerns their common good, it devolves thenceforth upon that body, the state, and upon its rulers, to fulfil the duties of humanity towards outsiders in all matters in which individuals are no longer at liberty to act, and it particularly rests with the state to fulfil these duties towards other states.' <sup>2</sup>

Vattel believes then that men have two loyalties, one to the separate state the other to humanity itself, and that they have, in addition, two sets of obligation corresponding to these loyalties. Once again this raises the problem of harmonising these obligations so that the moral and political world forms a consistent whole.

It was noted earlier that Pufendorf held that all men were equal and that no man had the right to claim for himself what he would refuse to others. This principle of equality is similarly important

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1. Vattel, *ibid.*, pp.9a-10a.

2. *ibid.*, pp.5-6.

within Vattel's thought. He argued that the state is a legitimate political association established by men wishing to improve their condition. And indeed since all men wish to improve their condition (and are obliged to assist others to improve theirs), it follows that separate, sovereign states should treat each other as equals and should assist one another to attain their ends - as far as is possible. While Pufendorf failed to adequately consider the obligations states have to improve each other's condition, Vattel asserts them emphatically:

'Since men are by nature equal, and their individual rights and obligations the same, as coming equally from nature, nations, which are composed of men and may be regarded as so many free persons living together in a state of nature, are by nature equal and hold from nature the same obligations and the same rights. Strength or weakness in this case counts for nothing. A dwarf is as much a man as a giant is; a small republic is no less a sovereign state than the most powerful kingdom. From this equality it necessarily follows that what is lawful or unlawful for one nation is equally lawful or unlawful for every other nation.'<sup>1</sup>

Now Vattel considers a variety of ways in which states can assist each other in the maintenance of their independence and viability. He maintains that 'if a Nation is suffering from famine, all those who have provisions to spare should assist it in its need'.<sup>2</sup> Furthermore states should be concerned to preserve each other's independence from any aggressor:

'If a Nation were to make open profession of treading justice under foot by despising and violating the rights of another whenever it had an opportunity of doing so, the safety of human society at large would warrant all the other Nations in uniting together to subdue and punish such a Nation.'<sup>3</sup>

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1. *ibid.*, p.7.

2. *ibid.*, p.115.

3. *ibid.*, p.135.

There is, in short, a natural society of states which each state is obliged to preserve and advance. Vattel does not condone the ego-centric state. Rather he argues for states which are prepared to assist each other to 'perfect' themselves, as required by the moral law which embraces them all.

Although Vattel takes us beyond Pufendorf, he proceeds to dilute the universal moral law which should regulate the affairs of states. It is one of the idiosyncracies of Vattel's position that he asserts the existence of a moral law which would bind persons, by definition according to normal discourse, and simultaneously asserts the right of the state to decide whether or not it will or can honour its obligations. Vattel maintains that nations are 'free and independent of one another' and that:

'In consequence of that liberty and independence, it follows that it is for each Nation to decide what its conscience decides of it, what it can or cannot do; what it thinks well or does not think well to do; and therefore it is for each Nation to consider and determine what duties it can fulfil towards others without failing in its duty towards itself. Hence in all cases in which it belongs to a Nation to judge of the extent of its duty, no other Nation may force it to act one way or another. Any attempt to do so would be an encroachment upon the liberty of Nations.'<sup>1</sup>

Now if there were a binding moral law it would appear rational to argue that states should have recourse to a form of international arbitration to settle their differences in accordance with impartial principles. And if the moral law was truly binding it would appear irrational to grant states the liberty of choosing whether or not to have recourse to such procedure. Now Vattel believes that:

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1. *ibid.*, pp. 6-7.

'A Nation must, therefore, render to others what is due to them, leave them in the peaceful enjoyment of their rights, repair any harm caused or injury done to any of them by itself, render them just satisfaction for an injury that cannot be repaired, and give them reasonable securities where they have had just grounds of fear as to what the Nation might do.'<sup>1</sup>

But he also asserts (at first with regard to what he calls the 'doubtful case') the lawfulness of a state which chooses 'to force its enemy to a settlement without having previously tried pacific means' on the grounds that 'it belongs to each Nation to judge whether it is in a position to attempt pacific means of settlement before having recourse to arms'.<sup>2</sup> On the other hand, in his Introduction Vattel puts forward an argument which undermines the concept of a morality:

'When differences arise each Nation in fact claims to have justice on its side, and neither of the interested parties nor other Nations may decide the question. The one who is actually in the wrong sins against its conscience; but as it may possibly be in the right, it cannot be accused of violating the laws of the society of Nations.'<sup>3</sup>

If this is pressed to its conclusion it would appear that there is no standard of justice with which to settle disputes between states. But, as we have seen, Vattel thought there was a moral law which obliged states as well as individuals, although adjustments would be necessary to make this moral law applicable to the different kind of society to be found at the international level. Nevertheless, Vattel is inclined to think that the mere act of judging another state may be incompatible with that society's liberty and with the natural society of states. Vattel claims:

'The liberty of a Nation would not remain

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1. *ibid.*, p.222.

2. *ibid.*, p.226.

3. *ibid.*, pp.7-8.

complete if other Nations presumed to inspect and control its conduct; a presumption which would be contrary to the natural law, which leaves every Nation free and independent of all other Nations.<sup>1</sup>

Paradoxical as it is, Vattel wishes to assert that states are under a moral obligation not to judge each other in accordance with their moral obligations.

Vattel's dissolution of an international morality (or his 'subjectivising' of the natural law by leaving every state the liberty of deciding what it can and cannot do) rests on quite different arguments from those used by Pufendorf. Vattel does not wish to press the essentially self-interested aspects of human nature or the unwillingness of men to perform obligations without hope of some reciprocal benefit. Vattel is more concerned about the possibility that an objective morality might be used to over-rule the liberty of a state. It might provide the basis for intervention in another state's affairs or for subordination of states to some imperial power or to the Papacy.<sup>2</sup> Vattel believed that the division of humanity into separate,

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1. *ibid.*, p.5.

2. According to one of his commentators: 'Fearing the hegemony of a pope or of an emperor, he resolutely argues even against the idea, so dear to Wolff, of a *maxima civitas*, in which all the states would be subject to a single law, as if they had only one common superior.' *ibid.* Introduction by A. de Lapradelle, pp.xi-xii. Vattel rejects the idea of '*civitas maxima*' on p.9a, *ibid.* In his *Law of Nations* Christian Wolff advanced the idea of a 'supreme state' consisting of 'all nations in general'. The supreme state was, Wolff argued, 'a certain sort of state, consequently a society, moreover since every society ought to have its own laws and the right exists in it of promulgating laws with respect to those things which concern it, the supreme state also ought to have its own laws and the rights exist in it of promulgating laws with respect to those things which concern it'. Moreover, 'in the supreme state the nations as a whole have a right to coerce the individual nations if they should be unwilling to perform their obligation, or should show themselves negligent in it'. *The Law of Nations* (Classics of International Law), Oxford 1934. pp. 13-14.

sovereign states was not merely the result of the impossibility of administering a world-wide political association. Rather, Vattel argues (and is here in agreement with Gibbon) that the division of men into separate, sovereign states is a precondition of human freedom - particularly freedom from an imperial power.<sup>1</sup> In addition, Vattel believed that the freedom of men was protected by denying states the right of judging each other's acts, a right which would justify one state 'punishing' another and so undermining the natural equality of states. For Vattel, as we shall see later, the balance of power is the means whereby free and equal states can maintain an international order while preserving that same freedom and equality. Let us now consider in a little more detail Vattel's concept of human liberty and its association with the 'subjectivising' of natural law.

The freedom of men is expressed first of all with reference to the original condition of man, namely the state of nature. No man can be subjected to political authority unless he has given his prior consent. Now while the individual has moral obligations to the rest of mankind, he retains the liberty of deciding whether or not it is possible for him to honour them. And this is a consequence of the fact that man is responsible first and foremost to himself. Each man has the right to perfect himself and to join in a society in order to improve his condition. But it must be his own deliberate decision which brings him into civil society. The rest of humanity has no right to prevent a man from joining the political society of his own choice or

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1. 'The division of Europe into a number of independent states, connected, however, with each other by the general resemblance of religion, language and manners, is productive of the most beneficial consequences to the liberty of mankind.' Gibbon, *The History of the Decline and Fall of the Roman Empire*, Vol.1, (revised and edited by the Rev.H.H.Milman) London 1890, p.58.

to interfere with the type of constitution which a people may choose to establish. Similarly, once the state is established no state has the right to impose its will on another state, for the latter is equally free to decide what it is to do. In this way states possess a natural freedom in relation to each other - like individuals in the original state of nature. Each has the right to perfect itself, each has the obligation to assist the other, but no state can be compelled to assist another. Now this would appear to create important difficulties for Vattel's theory. On the one hand, a group of people have the liberty to form a sovereign body in order to promote their common interests. However, their sovereignty will be incomplete if they can be compelled as of right to perform certain actions. Indeed, the meaning of sovereignty, as commonly understood, indicates that a group has the liberty of taking decisions without any obligation of consulting others or without reference to any higher authority. It is simply the right of taking decisions on one's own account. However, Vattel also wishes to argue for the existence of obligations to the whole of humanity. It is clear that sovereign states have been granted the liberty to choose whether or not to honour other than the most fundamental obligations owed to each other by virtue of the membership of the natural society of states. There is the problem of reconciling the fact that states have obligations to themselves in addition to obligations to preserve an international order favourable to them all. Vattel's account of the state and international relations must offer principles which will deal with situations where these two obligations and responsibilities are in conflict.

Now the problem is overcome in Vattel's writings by regarding obligations to oneself as prior to obligations to others. The

individual state is responsible first of all to itself and it has to measure its obligations to others against this standard. Vattel maintains that:

'If the rights of a nation are derived from its obligations they are chiefly derived from those which the nation owes to itself. We shall likewise see that its duties towards others mainly depend upon, should be regulated, and measured by its duties towards itself.' <sup>1</sup>

Vattel does not wish men 'to learn how not to be good'.<sup>2</sup> He does not wish to argue that men are justified in always placing their own interests before the interests of others:

'We know that, in general, duties toward self prevail over duties towards others; but this is only to be understood of duties which bear some proportion to one another ... What idea should we have of a prince, or of a nation, who would refuse to yield the smallest advantage in order to gain for the world the inestimable blessing of peace?' <sup>3</sup>

And quite clearly no state has the right of violating the right of other states to an equally free existence. But in those contexts where a state has a choice between harming another or enduring substantial injury to itself, it has no choice but to place its own welfare first. Nevertheless, the decision whether or not a state can honour an obligation without doing injury to its own welfare must always belong to the sovereign state. Vattel might have argued for international arbitration to have a fundamental place in the conduct of international relations, but his preference rests with the liberty of the state to decide for itself.

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1. Vattel, *op.cit.*, p.13.

2. Machiavelli, 'The Prince', in *The Prince and the Discourses* (ed. M. Lerner), New York 1950, p.57.

3. Vattel, *op.cit.*, p.225.

In this discussion Vattel makes use of the distinction between perfect and imperfect obligations. The essence of an imperfect obligation is that a man or a state may request that the obligation be honoured, but has no right to compel the other state to act in accordance with it. With a perfect obligation, on the other hand, one party may use force to compel another to act accordingly. Therefore, where a state is only imperfectly obliged it cannot be compelled to honour its obligation:

'It will now be readily understood why a right is always imperfect when the corresponding obligation depends upon the judgment of him who owes it; for if he could be constrained in such a case he would cease to have the right of deciding what are his obligations to the law of conscience. Our obligations to others are always imperfect when the decision as to how we are to act rests with us, as it does in all matters where we ought to be free.'<sup>1</sup>

The element of freedom which is contained in the idea of an imperfect obligation has peculiar implications for Vattel's idea of the natural society of states. It seemed that Vattel had improved upon Pufendorf since he had a more rigorous idea of the obligations which survived the division of men into separate, sovereign states. States had the duty of assisting each other to perfect themselves. Therefore, Vattel's system would seem to require that men in the act of dividing into separate states recognise the obligation of trying to improve each other's condition. Pufendorf, on the other hand, imagined a situation where some men might be compelled to join a society simply out of fear. But Vattel is not sufficiently rigorous in his defence of international obligations. He maintains that a nation which experiences famine may request aid from another, but cannot compel the granting of aid since

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1. *ibid.*, p.6.

the option of assistance is one which has to be left to the potential donor. It would not be an 'injury' or an 'act of aggression' to refuse to grant aid.<sup>1</sup> However, it would be an injury to compel a state to act in accordance with its duties to humanity since this would constitute a violation of the natural liberty of states. While there is an obligation to help all men to perfect themselves there is simultaneously a right to refuse to perform the obligation. Ultimately for Vattel the obligation to respect the natural liberty of states is the most fundamental of all.

Since the natural liberty of states is the highest value for Vattel it follows that the move from an imperfect to a perfect obligation is possible only through the consent of the state. One state may grant another the right to receive aid, and not merely to request it, through the signing of a treaty and it may be compelled by the other signatory to honour that obligation. But, in this example, the obligation is created by the state through its consent. Conversely, without the element of consent the state would not have been obliged to actually give aid. Now Vattel believed that all states should recognise each other's right to decide whether or not to create perfect obligations through the signing of treaties. Each state should value its own liberty and the liberty of others, the ensuing condition being preferable to one where states could compel each other to assist in their perfection. In the latter condition states would either be in constant danger of war or would require some superior power to compel states to honour their obligations. Since the former condition represents a continual threat to international order and the latter condition represents a threat to individual liberty, states are commonly

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1. *ibid.*, pp. 116 and 119.

advantaged by recognising each other's liberty to decide the extent to which they can honour their duties to humanity without incurring substantial injury to themselves. It is in the interest of all to regard a legitimate ordering of world society as one in which separate states recognise each other's liberty and equality. Vattel's theory of the state and international relations does not defend the right of the egocentric state to ignore international obligations or violate the rights of others when it chooses. It defends the idea of international obligations, which ought to be respected, and it argues that major benefits for the international order must take precedence over trivial losses for the state. There is, in other words, a principle of proportionality which the state has to take into account in deciding upon any precise course of conduct. But even in arguing for the natural liberty of states to judge how far they can perform 'offices to humanity', Vattel is defending a principle of international morality. For it is of overriding significance that separate states recognise their equal freedom.

## II

Let us now turn to a discussion of Vattel's concept of international order. It has been suggested that Vattel improves upon Pufendorf's account of international relations by maintaining that states are obliged to preserve an international order among themselves, one which protects the liberty of each member state. By comparison with Vattel, Pufendorf's thoughts on international order are particularly crude. Pufendorf considered external relations in instrumental terms and would not appear to wish to argue that states should expend much

effort preserving the international order unless precise benefits would result. Pufendorf is over-inclined to consider international order in instrumental terms and, as a result, little attention is paid to obligations to preserve an international order among free and equal societies. It is to Vattel's credit that he considered at some greater length the nature of the international order that might exist between separate states.

It is crucial to Vattel that the natural liberty of states must be preserved by states themselves. Vattel imagines a voluntaristic international order whereby free states contribute to the preservation of their natural liberty. And it is through the use of the balance of power that equally free societies can best maintain an order favourable to themselves:

'Europe forms a political system in which the nations inhabiting this part of the world are bound together by their relations and various interests into a single body. It is no longer, as in former times, a confused heap of detached parts, each of which had but little concern for the lot of others, and rarely troubled itself over what did not immediately affect it. The constant attention of sovereigns to all that goes on, the custom of resident ministers, the continual negotiations that take place, make modern Europe a sort of republic, whose members - each independent, but all bound together by a common interest - unite for the maintenance of order and the preservation of liberty. This is what has given rise to the well-known principle of the balance of power, by which is meant an arrangement of affairs so that no state shall be in a position to have absolute mastery and dominate over the others.'<sup>1</sup>

Vattel defends the balance of power as a means of preserving the liberty and equality of separate states. It is not the result of separate, egotistical states attempting to reach supremacy only to be

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1. *ibid.*, p.251.

thwarted and possibly overtaken by others. For Vattel the balance of power was not to be confused with an international system 'in which egotism was limited by nothing but egoism'.<sup>1</sup> Indeed, as Hinsley has stated, Vattel belongs to a group of thinkers who 'assumed that the relations between those states were moderated by the recognition that they were members of a common civilisation, no less than by expediency'.<sup>2</sup> The balance of power is a condition which states should seek to establish for their mutual welfare and for the preservation of one of the great values of the civilisation to which they belong, namely liberty. It is important that every state should be on its guard against any state which would seek to upset the balance of power, and to 'weaken' it 'as soon as a favourable opportunity can be found when we can do so with justice'.<sup>3</sup> For this reason Vattel had particular regard for England 'whose wealth and powerful navy have given her a very great influence, without, however, causing any state to fear for its liberty, since that power appears to be cured of the spirit of conquest - England, I say, has the honour to hold in her hands the political scales. She is careful to maintain them in equilibrium.'<sup>4</sup> Nevertheless, Vattel does not overlook the fact that the main incentive for preserving the balance of power will be the resulting advantages for the separate state. A state which enters a war in which it has no immediate interests at stake is, according to Vattel, safeguarding the liberty of the nation attacked, preserving the balance of power and securing an environment in which states will be more likely to assist it should it be attacked. Indeed 'if all sovereigns

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1. F.H. Hinsley, *Power and the Pursuit of Peace*, Cambridge 1963, p.188. For Vattel the balance of power is a "policy" rather than a "situation".

2. *ibid.*, p.187.

3. Vattel, *op.cit.*, p.251.

4. *ibid.*

were constantly aware of their true interests'<sup>1</sup> they would be prepared to safeguard the balance of power at all times for in so doing they discharge their obligations to humanity and help to perfect themselves:

'Thus, when a neighbouring state is attacked unjustly by a powerful enemy which threatens to crush it, if you can defend it without exposing yourself to great danger there is no question but that you should do so. Do not raise the objection that a sovereign has not the right to expose the life of his soldiers for the safety of a foreign nation with which he has not contracted a defensive alliance. He may happen to have like need of help; and therefore by putting into force the spirit of mutual assistance he is promoting the safety of his own nation. Statecraft thus goes hand in hand with duty and obligation, for princes have an interest in checking the advance of an ambitious ruler who seeks to increase his power by subduing his neighbours.'<sup>2</sup>

Vattel was of the opinion that the balance of power was a means of preserving the freedom of all states, and so its use was an important means of fulfilling the obligations which all men owe to one another. In addition, Vattel believed that states could freely regulate the balance of power among themselves, since enlightened self-interest would endorse its capacity to assist the state to perfect itself.

The balance of power in Vattel's view is capable of holding together the obligations of the state to itself and the obligations owed the rest of humanity. And it is the enlightened self-interest of the state which enables it to fulfil its responsibilities to others while improving its own welfare. Vattel's system contains one loop-hole which makes the harmony of obligations to fellow-citizens and fellow-men less attractive than it might seem. The loop-hole is found in the fact that the state is always the judge of how far it can honour

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1. *ibid.*

2. *ibid.*, pp.114-5.

its international responsibilities when its own welfare is endangered. According to Vattel's theory of international relations there is no reason why a state should refuse an alliance with a power attempting to upset the balance of power if it is more likely to preserve its own liberty in that way rather than through an alliance with weaker powers. Here it seems Rousseau has found the answer to Vattel as well as to Pufendorf. Vattel can avoid the attack that Rousseau might make of Pufendorf, namely that in exchanging the natural condition of man for a state of nature composed of states man moves into a more miserable condition. Vattel has at least argued that states are obliged to assist each other to perfect themselves. Nevertheless, since they retain the liberty of deciding how far they can honour their international obligations insecurity must be an inevitable part of Vattel's international order. For this reason Rousseau's parable is particularly striking. Why should one man co-operate with five others to capture a stag when through his own efforts he can capture a hare, especially when he knows that each of the others has the liberty of doing the same? In an environment when the commitment of others to a common objective cannot be assumed, a state must always be tempted to take care of its responsibilities to itself first of all, lest in performing its obligations to outsiders it finds itself disadvantaged. Since this insecurity is essentially related to the liberty of states, the objective of harmonising obligations to fellow-citizens and obligations to fellow-men seems to elude Vattel.

Although Vattel's theory of international relations is an improvement upon Pufendorf's, insofar as it has a more developed idea of an international order founded upon obligations to humanity, it allows these obligations to be overridden too easily. Certainly,

Vattel is careful to point out that international obligations should not be ignored simply on account of minimal national advantages. The liberty of states would be challenged according to Vattel if states were presumptuous enough to pass judgment on each other's conduct. A serious commitment to the concept of obligations to humanity would require the removal of the latitude allowed states and a defence of international bodies authorised to pass judgment on the conduct of external relations. A more rigorous interpretation of obligations to humanity would require states to submit their disputes to, for example, an international court entrusted with judging state conduct in accordance with principles of law and morality. However, Vattel does not argue for this objective on account of his preference for the liberty of the state. If Vattel fails to develop a harmonious relationship between universal moral obligations and more local political obligations, at least it is in pursuit of an important value, namely liberty or freedom from the domination of an imperial power.

It is not surprising that Vattel should have found favour in the contemporary world where the freedom of states from the imposition of the ideologies of foreign powers is important for international order. Hedley Bull's argument that in an ideologically diverse world order must have priority over justice (since the pursuit of justice would endanger order) has its roots in Vattel's theory of international relations.<sup>1</sup> Bull credits Vattel with having helped establish the 'pluralist' as opposed to the 'solidarist' approach to international relations.<sup>2</sup> In opposition to the Grotian or 'solidarist' approach,

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1. H. Bull, "Order vs. Justice in International Society", *Political Studies*, vol.19, 1971, pp. 269-83.

2. H. Bull, "The Grotian Conception of International Society", in *Butterfield and Wight, op.cit.*, ch.3.

the 'pluralists' maintain that states 'are capable of agreeing only for certain minimum purposes which fall short of that of the enforcement of the law. In the view it takes of the area of actual or potential agreement among the member states of international society it may be called pluralist where the Grotian doctrine is solidarist; and the rules it prescribes for relations among them are such as to reflect this difference'.<sup>1</sup> There is a sense in which the principles advanced by Vattel deal with a unique context, namely a group of states which form a society insofar as they recognise common moral principles, while acknowledging that only limited agreement is possible among sovereign states. Where states are ideologically divided it is evidently more desirable that states agree upon the nature of an order that might exist among them than attempt to impose opposing conceptions of justice upon each other's populations. And indeed an agreement upon the need to preserve the natural liberty of states would be no mean accomplishment in such a condition.

Bull, who accepts Vattel's pluralism, states that 'although the solidarity exhibited by international society may increase in the future, just as it may decrease, it can still be argued that in the twentieth century the Grotian conception has proved premature'.<sup>2</sup> If the Grotian conception is 'premature' rather than absurd or incoherent then we shall have to go beyond Vattel for a sound theory of international relations. Vattel does not offer his theory simply for application in a context where states are unable to agree on fundamental rules for the regulation of their relations. On the contrary, Vattel is opposed to the development of any association larger than

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1. *ibid.*, p.52.

2. *ibid.*, p. 73.

states as is apparent in his explicit rejection of Wolff's idea of *civitas maxima*. If Vattel was simply concerned to offer principles which might maintain a certain level of international order until such time as international society was capable of more 'mature' development then Vattel's ideas could be incorporated within what has been termed an international theory. But Vattel's assertion of the liberty of the sovereign state and of its right to decide how far it may honour its moral obligations to outsiders would, if implemented, prevent the emergence of a truly international society and ensure that prematureness of Grotius. For Vattel's theory is a diplomatic theory. And although he defended the idea of a moral order in international relations obligations to fellow-citizens have an unmistakable priority over obligations to fellow-men. Consequently obligations to humanity are acceptable only insofar as they do not challenge the idea of a humanity divided into separate, sovereign states. In order to discover an attempt to harmonise these obligations let us now turn to the ideas of Immanuel Kant.

CHAPTER EJCHT

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Kant's Theory of Morals and  
International Relations.

'Grotius, Pufendorf, Vattel and the  
others - miserable comforters all  
of them..'

The previous two sections have examined the ways in which two thinkers have handled one of the fundamental ideas in the tradition of Western thought, namely that each man has moral obligations to the rest of humanity. These thinkers were at the same time concerned to argue for the division of mankind into separate, sovereign states. Although each thinker argued that obligations to the rest of humanity did exist, it was evidently believed that individuals created particular obligations among themselves through the formation of states and that these had priority over the obligations men incurred naturally. Now the method employed by Pufendorf and Vattel is of particular interest in considering Kant as a theorist of international relations. It is central to their argument that men have particular ends which can be satisfied without engaging in a world-wide civil society. For Pufendorf the essential end of man is the attainment of a condition of enforceable law which will give man the security he lacks in the state of nature. For Vattel the essential end is a form of perfection which is understood in terms of welfare and happiness. It is in pursuit of these ends that men form societies and engage in international co-operation should the separate state be incapable of providing for them by itself. And it is the ability of men to realise their ends without forming a universal state which accounts for their

division into separate political associations. Therefore, at the heart of the international relations theory of Pufendorf and Vattel lies a particular concept of man and the ends he wishes to pursue. While it is important to Pufendorf and Vattel that men recognise obligations which they have as men (as they have moral ends by virtue of their nature) these ends are not held to provide the basis of a worldwide political association. Natural moral ends suggest that there is a society of states, because there is a universal morality which survives the division of men into states, but men are not obliged to try to form an international society which ensures that justice is done to all men. States are obliged to consider moral obligations in conducting their external relations, but since as associations they are concerned first of all with promoting the ends of their citizens, they remain judges of how far they can or will honour international moral obligations. The perfection of international relations, by increasingly bringing them under the regulation of universal morality, is not an end in itself for either Pufendorf or Vattel. It is precisely at this point that we find in Kant a radically different account of the state and international relations, and underlying this a fundamentally different account of the ends of man.

Kant regards men as bound by a necessary obligation to so arrange their social and political lives that they gradually approach a condition of universal justice and 'perpetual peace'. This goal is not a 'hypothetical' goal, one which men might pursue if they wish to advance certain of the ends they happen to have. It is rather an essential or 'categorical' end, one which men unconditionally are obliged to seek by virtue of their rational nature.<sup>1</sup> Man, on account

1. On the distinction between the hypothetical and the categorical imperative see Kant, *The Moral Law (Kant's Groundwork of the*  
[over]

of his rational nature, has moral ends which he is bound to advance and these ends assess the rationality of the particular purposes he wishes to pursue. For Kant man has a moral obligation 'to further a systematic harmony of purposes among men',<sup>1</sup> which is understood by one commentator as an 'ideal moral world ... in which each man would have the liberty to realise all of his purposes in so far as these purposes are compatible with like liberty for all'.<sup>2</sup> The attainment of this objective, which is an essential human objective, is possible only through the attempt to bring all men under a world-wide system of law.

Let us consider in a little more detail the fundamental differences between either Pufendorf or Vattel and Kant. As we have seen the former argued that men had natural liberty since they were free from government in the state of nature. Because of the defects of the state of nature men had consented to subject themselves to political authority in order to promote their own advantage. Although men as men have certain moral ends it was also argued that they wish to secure their own safety and promote their own welfare. These individual ends bring men into political societies. While men are obliged to respect the moral ends they originally and naturally have, it is clearly the case that morality is made more effective within sovereign states where men seek the satisfaction of their individual ends. Since the particular ends of individuals can be attained within the separate state, there is no need for an international government and not the same need for making universal morality more effective at the inter-

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*Metaphysics of Morals*) edited and translated by H.J. Paton, London 1961, p.82.

1. H.J. Paton, *The Categorical Imperative*, London 1947, p.163.
2. J.G. Murphy, *Kant: The Philosophy of Right*, London 1970, p.93.

national level. Conversely, if it were only possible for men to adequately promote their welfare through associating at the international level then it would be necessary to make morality more effective through the establishment of a world-wide legal system. The extent of the effectiveness of man's natural morality depends entirely upon the degree to which men must associate in order to promote their individual ends.

Now the essential purpose of Kant's concept of man is to contest the manner in which the effectiveness of morality is made dependent upon the individual's assessment of how he might best promote his individual welfare. For although it is undeniable that men have particular ends to pursue including their self-preservation and welfare it is also true that as rational beings they have moral ends which they ought to realise. According to Kant man is a member of two worlds - a world of desire where he seeks his advancement and the satisfaction of his inclinations, and a world of rationality where through reason he can establish the moral ends he ought to pursue. By acting in accordance with the moral ends prescribed by reason, man establishes what is distinctively human in his nature. Only through morality can man affirm his dignity. The preservation of his life and the satisfaction of his desires are ends which man shares with the animals. Through the acceptance of a morality whereby man acts in accordance with principles which are true for all, man curbs his individual desires and affirms his freedom and dignity through asserting his independence of the natural world. On account of his membership of the world of rationality man is capable of establishing moral ends which it is his duty to pursue. The ordering of social and political life in accordance with these ends is the manner in which man unfolds his

uniquely human characteristics.

Kant is at odds with the method of Pufendorf and Vattel since it regards the pursuit and perfection of man's moral ends to be dependent upon prior calculations about the satisfaction of individual inclinations. Morality will not receive legal guarantee at the international level, according to these theorists, since it is possible for men to satisfy their fundamental desires within the sovereign state. For Kant this method places the realm of rationality at the service of the realm of inclination so jeopardising the capacity of men to use reason to establish moral ends which are independent of inclinations. It is the fundamental aspect of Kant's moral philosophy that the dependence of 'the concept of obligation' upon man's 'empirical motive' leaves man's distinctively human characteristics unrealised.<sup>1</sup> The effectiveness of man's morality is made dependent upon calculations within the world of inclination, and so the necessary ends man has as a rational being do not achieve priority over the calculations men make in attempting to promote their welfare.

While Pufendorf and Vattel understood political life as a means whereby individuals promote their welfare, Kant understands it as a means whereby men make their rational morality more effective among themselves.<sup>2</sup> The former understand political life in prudential terms since it is an instrument whereby individuals promote their interests. In Kant's terms the political is here made dependent upon the world of inclination while it ought to be related to the ends men

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1. Kant, *The Moral Law*, *op.cit.*, pp. 58-59.

2. Kant refers to 'Morals ...before which politics must bow the knee.' *Perpetual Peace*, in M.G. Forsyth, H.M.A. Keens-Soper and P. Savigear, *The Theory of International Relations*, London 1970, p.243.

necessarily have as rational beings. The more essential ends of men cannot be satisfied by permitting humanity to remain divided into separate, sovereign states which are understood to be the main agencies for satisfying their individual ends. Moral philosophy, as a rational inquiry which attempts to establish the ends which rational beings ought to pursue, requires rather the gradual transformation of this political world so that all men may make effective the fundamental moral obligations owed to one another.

I propose now to discuss Kant's ethics and theory of international relations within three main sections. In the first place the discussion will be concerned to briefly outline the fundamentals of Kant's moral philosophy. The discussion will proceed to try to indicate the more important respects in which Kant's ethical theory differs from either Pufendorf's or Vattel's especially with regard to recommendations concerning conduct. The third and final section of this chapter will discuss Kant's particular recommendations for the conduct of the external relations of states. Throughout this section the discussion will be concerned to illustrate Kant's approach to the harmonisation of obligations due to fellow-citizens and obligations due to fellow-men.

## II

In his statement of his objectives Kant makes it plain that he was not attempting to create a new morality. It was arrogant of a theorist, so Kant alleged, to believe he was about to discover principles previously unknown to the human race. For this reason it is unacceptable to think that Kant was involved in the creation of principles which were binding in all circumstances irrespective of the

consequences of acting upon them. On the contrary, Kant's ambition was to begin with the fact that man experiences himself as a moral agent and then to proceed to articulate certain propositions which make this experience possible and intelligible. His major ambition was then to make explicit the principles which underly moral experience, to bring its presuppositions to light.

According to Kant the following 'imperative' is fundamental to the nature of morality: 'Act only on that maxim through which you can at the same time will that it shall become a universal law'.<sup>1</sup> This formulation makes explicit the fact that a rational person will wish his actions to be governed by universal principles, since we only enter the world of morality when we ask if the principle on which we act can in fact be universalised. Now in stating this point, Kant has in mind all rational beings, a category more inclusive than human beings. It is conceivable, he argues, that there are beings which are absolutely rational and perfectly good, and so without inclinations which tempt them to act in opposition to universal principles. Man, however, belongs to the world of reason and the world of inclination and so may be tempted to 'take the liberty of making an exception' to a principle in order to satisfy an inclination.<sup>2</sup> The idea of a universal principle emphasises the fact that a man should not make arbitrary exceptions to a principle in order to benefit himself. He is not at liberty to treat others according to a principle which he would wish to evade should it become the basis of another's action towards him. To be moral, men must strive to obey impartial and impersonal principles which (other things being equal) treat rational beings equally. What holds for one man in a specific situation must

1. *ibid.*, p.88.

2. *ibid.*, p.91.

hold also for other men in similar situations. Any attempt to avoid the element of universality in action is contrary to reason, since it is an attempt to make an arbitrary distinction between equal, rational beings. Such an attempt is contrary to the essence of morality.

Let us consider universality with regard to a particular example. It could be said that a state was behaving morally if, for example, it refused to take another state's territory on the grounds that it could not act upon a principle which would allow any state to capture the territory of another. A state which declined to capture another's territory, only on account of a fear that its action might result in punitive action by other states, would not behave morally. It is, after all, acting in a self-interested manner, being constrained only by its fear of what would happen to it were it to attack another state. We could imagine the state reviewing the situation if the source of its fears could be removed. This indicates that the state is considering how to act only with regard to prudential calculations. It is considering only the probable consequences of its action upon its own interests. However, if it is to remain within the domain of morality the state must ask if it is allowing itself a course of action which it would deny to others, if it is claiming a liberty to act against others which other states would not be allowed against it - in short, if the principle underlying its act can be universalised. Our state, in the example above, would be taking the moral point of view if it refrained from attacking others on the grounds that in similar circumstances it could not reasonably allow other states the liberty of attacking it. It takes the moral point of view through the submission of its inclinations to a universal principle, a principle which

governs all states equally and without exception.

This first formulation of the moral law is according to Kant's argument closely related to a second. Kant argues that acting in accordance with universal laws involves rational beings recognising each other as ends rather than merely as means. For all rational beings, whether they are men or not, must have their own rational nature as an end in itself. The concept of morality, in other words, presupposes that rational nature is an end in itself:

'Now I say that man, and in general every rational being, exists as an end in himself, not merely as a means for arbitrary use by this or that will; he must in all his actions, whether they are directed to himself or to other rational beings, always be viewed at the same time as an end ... Rational nature exists as an end in itself.'<sup>1</sup>

It is in the nature of a rational being that when he acts it is always with some reference to an end which he sets for himself. But as we saw in the first formulation of the categorical imperative a rational being must limit his ends by asking if the maxim underlying the end is capable of being universalised. If the maxim cannot be universalised, if everyone could not have this maxim, then a rational being would make an arbitrary exception in his own case were he to go ahead and act anyway. Here he would be involved in saying that he was prepared to subordinate the universal law to his personal inclinations, and indeed that he was prepared to ignore the ends of other men in order to satisfy his own particular inclination. He is, in other words, prepared to allow personal inclination to over-ride the equality of others. He is involved too in discounting the ends of other beings and is, therefore, prepared to treat other beings as mere means to his ends.

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1. *ibid.*, pp. 95-96,

The point of universalisability is not merely to ensure consistency for its own sake: it is so that 'the rational being will insure that in pursuing his own ends (whatever they may be) he leaves every other rational being the freedom to pursue his own ends'.<sup>1</sup> To act in accordance with universal principles is to regard the ends of other beings to be equal to one's own, and is thereby to affirm the value of rational nature.

In his description of a morality which binds all rational beings Kant maintains that we should act in such a way that the 'will can regard itself as at the same time making universal law by means of its own maxims'.<sup>2</sup> Again, this formulation is related to the first formulation of the categorical imperative. While the first formulation focussed upon the objectivity of universal principles, this formulation asserts that the necessity of living in accordance with such principles does not come from outwith the nature of a rational being, but is given to him through the exercise of his own reason. Kant is concerned to argue that some earlier moral theories failed to realise the full implication of the fact that man is 'subject only to laws which are made by himself and yet are universal'.<sup>3</sup> Reason itself gives rise to universal moral principles which men are obliged to consider. And since men are capable of acting in accordance with reason (since man stands apart from the causality of the natural order) it follows that he can regulate his inclinations in order to remain within the realm of morality. Kant maintains that earlier thinkers:

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1. Murphy, *op.cit.*, p.74.
  2. *The Moral Law*, *op.cit.*, p.101.
  3. *ibid.*, p.100.

'thought of man merely as subject to a law (whatever it might be), and the law had to carry with it some interest in order to attract or compel, because it did not spring as a law from his own will: in order to conform with the law his will had to be necessitated by something else to act in a certain way.' <sup>1</sup>

Kant wishes to argue that it is essential to the idea of morality that rational beings can follow the promptings of reason alone, and that it is not necessary that it should be in their interest before they act in accordance with universal principles. Indeed, to suggest that this is the case (which we noted was found in Pufendorf and Vattel) is to jeopardise the concept of morality as it undermines man's freedom from the complete control of natural laws. The concept of morality is only applicable to a being which is free. Since it is pointless directing moral approval or disapproval at a being incapable of acting differently, the concept of morality presupposes the capacity to stand above one's particular desires or interests in order to ensure that their satisfaction is not at the price of violating universal principle. To be capable of acting morally is to be able to control one's ends by reason. And this in turn involves the idea of being free. In addition to the idea that the concept of morality presupposes the concept of universality and respect for other beings as end in themselves it is important to consider its involvement of the idea that rational nature is free.

The idea of rational beings using reason to establish universal principles, which treat rational nature as an end in itself, leads Kant to a further formulation of the categorical imperative. With this formulation Kant is considering rational beings establishing universal principles through their social existence. This formulation

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1. *ibid.*

is as follows: 'So act as if you were always through your maxims a law-making member in a universal kingdom of ends'. Rational beings are to think of themselves as members of a moral community creating and obeying moral principles. It is the view:

'that morality demands that we act on the sort of policies which, if adopted by everyone, would generate a community of free and equal members, each of whom would in the process of realising his own purposes also further the aims of his fellows ... Its basis is the idea of autonomy, or freedom under self-imposed law, according to which each person freely submits to self-discipline under the same rules he would prescribe for others, so that everyone would act as a law unto himself, or 'autonomously', and yet also in co-operative harmony with everybody else.'<sup>1</sup>

This moral community, or kingdom of ends, harks back to Rousseau's direct democracy, to that context where 'each, while uniting himself with all, may still obey himself alone, and remain as free as before'.<sup>2</sup> This is most apparent in Kant's remark that 'a rational being belongs to the kingdom of ends as a member, when, although he makes its universal laws, he is also himself subject to those laws. He belongs to it as its head, when as the maker of the laws he is himself subject to the will of no other'.<sup>3</sup> The kingdom of ends is a condition where rational beings obey only the laws they make themselves. And since these laws are the product of reason each man is at liberty to pursue his ends insofar as these are compatible with the existence of others as ends in themselves. As a result there is what Kant calls 'a systematic harmony of purposes', a moral community where the ends of rational beings are harmonised in accordance with rational principles.

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1. W. Wick in his introduction to Kant, *The Metaphysical Principles of Virtue*, New York, 1964, p. xv.
  2. Rousseau, *The Social Contract*, in Cole, *op.cit.*, p.12.
  3. *The Moral Law*, *op.cit.*, p.101.

Let us briefly consider the manner in which this more contractarian formulation of the categorical imperative is related to earlier ones. The principle of universalisability involved the idea of treating other beings as ends in themselves. It was necessary that one agent did not make arbitrary exceptions in his own case and so treat the ends of others without respect. A different way of formulating this is that it is wrong to treat another being in accordance with a principle to which he could not give his consent as a rational being. One could not expect a being to agree to allow his ends to be totally ignored simply in order that another man can satisfy his personal inclinations thereby. Kant considers this with reference to the giving of a false promise in order to obtain money from another. He maintains:

'For the man whom I seek to use for my own purposes by such a promise cannot possibly agree with my way of behaving to him, and so cannot himself share the end of the action.'<sup>1</sup>

When Kant maintains that the promisee cannot agree with what is being done to him, it is certain that he does not mean to deny that in empirical situations a man might consent to be used. What Kant is concerned to argue is that a rational being aware of rational nature as an end could not allow himself to be used as a means to the satisfaction of the personal inclinations of another. No rational being could consent to an action which discriminated against him without reason - by definition. Or, as Paton has put it:

'the will of a rational person is not to be subjected to any purpose which cannot accord with a law which could arise from the will of the person affected himself.'<sup>2</sup>

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1. *The Moral Law*, *op.cit.*, p.97.

2. Paton, *op.cit.*, p. 169.

This is the sense in which we are to understand the 'contractarian' theme as it appears in Kant's formulation of the categorical imperative. And it is in this sense also that the contractarian emphasis in the idea of the kingdom of ends is to be added to the ideas of universality, rational nature as an end in itself and freedom, to form the essence of morality.

The analysis so far has been concerned with morality in relation to all rational beings, a category which includes but is not exhausted by human beings. According to Kant the concept of duty holds 'for all rational beings ... and only because of this can it be a law for all human wills'.<sup>1</sup> Now the analysis Kant has offered with regard to rational morality is described as his formal moral philosophy. The morality which applies to human beings is described as his material moral philosophy, because in order to apply rational morality to humans it is necessary to take account of human nature itself. The concept of morality so far discussed is not sufficient to guide the actions of human beings. As a recent commentator on Kant has stated:

'To know that we should treat all rational beings as ends in themselves is not to know a great deal. For what counts as treating another as an end? To know this we have to know something about the actual material ends and purposes that human beings have. For what we want to know now is not simply what in general counts as rational action for any rational being, but rather what counts as rational action for humanity.'<sup>2</sup>

Kant refers to the possible existence of beings with a 'holy will'.<sup>3</sup> These beings are unlike humans (although both are rational) in so far as the former are always in conformity with the moral law, while human

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1. *The Moral Law*, *op.cit.*, pp.92-93.

2. Murphy, *op.cit.*, p.86.

3. *The Moral Law*, *op.cit.*, p.107.

beings, tempted by their personal inclinations, may easily fall short of its commands. The categorical imperative has to take into consideration the specific nature of human beings, beings which have to struggle against their inclinations (as Kant might put it) in order to become moral. In dealing with the material ends of human nature in order to apply the categorical imperative to human beings Kant makes reference to man's membership of two worlds, the world of reason and the world of inclination. It is impossible for man to have the ends of a purely rational being with a holy will since man has inclinations and desires which he wishes to satisfy. On the other hand it is impossible for man to pursue only his inclinations since he occupies the world of reason and has the capacity to be moral. Kant understands man as the 'final end of nature', the highest being in nature, and as having an obligation to perfect himself. According to Kant perfection is one of the 'essential ends' of humanity since man must try to realise his moral powers.<sup>1</sup> Neither a being with a holy will nor an animal could be said to have the duty to perfect itself since the former inhabits only the rational world, while the latter inhabits only the world of animality. The concept of perfection has significance only when employed in connection with a being which occupies both worlds. This is true also of another of man's essential ends, namely happiness.

In his argument that it is reasonable for human beings to pursue happiness Kant recognises the natural element in man's nature. Since he is a being with desires and inclinations it is reasonable that he should wish to maximise pleasure and integrate all his ends including pleasure into a harmonious whole. Now according to Kant a

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1. See especially Murphy, *op.cit.*, pp. 99-102.

man cannot be obliged to pursue happiness since this is one of the states men naturally seek. Man does have an obligation to perfect himself since he is obliged to treat his own rational nature as an end to be made manifest in his action. However, as far as happiness is concerned a man with inclinations and desires will of necessity pursue that state. And although it may seem more natural that a man should place his own happiness before others' ("the maxim, 'Every man for himself, God (destiny) for us all' seems more 'natural' than the 'duty of beneficence'") men cannot be indifferent to the happiness of others.<sup>1</sup> As Gregor has said:

'And so my attitude toward happiness is not an attitude merely toward my happiness but rather toward the happiness of men as such. To will my own happiness and, at the same time, be indifferent to the happiness of others would be morally wrong because my maxim regarding happiness would lack the universality of a law.'<sup>2</sup>

A man is at liberty to pursue his own happiness, but is obliged to govern this by a rational principle which respects the equal liberty of other men to pursue their happiness too. The pursuit of happiness, which recognises the natural element in man, is governed by universal principles which indicate man's participation in the rational order.

It is important to consider the manner in which the concept of obligation is related to the essential ends of humanity. For Kant a man is obliged to perfect himself, that is in part, to govern his inclinations by rational principles, but not to make himself happy, since he will aim at happiness by nature. On the other hand, he is

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1. Kant, *The Metaphysical Principles of Virtue*, (translated by J. Ellington), New York 1964, p.116.
  2. Quoted by M.J. Gregor, *Laws of Freedom: A Study of Kant's Method of Applying the Categorical Imperative in the Metaphysic der Sitten*, Oxford 1963, p.192.

obliged to consider the happiness of others, but is not obliged to attempt to make others perfect. It is an obligation to show concern for the welfare of others, which requires taking an interest in their happiness; however, there is no obligation to perfect others as such an attempt would constitute an intrusion upon the moral lives of other persons. The central obligation to humanity is to be found in the duty of benevolence since each man 'must regard his sphere as part of an all-encompassing sphere of cosmopolitan sentiment'.<sup>1</sup>

In order to bring the categorical imperative to bear upon the condition of human beings Kant refers to acting in accordance with 'a universal law of nature' and belonging to a kingdom of ends 'on the analogy of a kingdom of nature'.<sup>2</sup> The universal law of nature serves to make the principle of universalisability more 'vivid' for us. In the words of Paton:

'The best, if not the only way, to make such a law vivid in our imagination is to picture to ourselves a world in which everybody in fact acted in accordance with it. This is the eminently sensible procedure which Kant now commends to us. It is one which is commonly followed by ordinary men. The duty of fire-watching, for example, was sometimes pressed home by the question 'What would happen if everybody refused to do it?' To ask questions of this kind is to consider a maxim as if it were to become through your will a universal law of nature.'<sup>3</sup>

In order to test whether or not what we propose to do is moral we are to imagine a world in which everyone acts according to the maxim

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1. *The Metaphysical Principles of Virtue*, *op.cit.*, p.140.
  2. The two formulations of the categorical imperative which employ this idea are: 1. 'Act as if the maxim of your action were to become through your will a universal law of nature', and 2. 'All maxims as proceeding from our own making of law ought to harmonise with a possible kingdom of ends as a kingdom of nature.' *The Moral Law*, *op.cit.*, p.86 and p.96 respectively.
  3. Paton, *op.cit.*, p.146

underlying our action. Now this is an act of imagination only, through which we make more evident the nature of the maxim upon which we propose to act. There is no question of whether or not this world might exist and we do not judge the rightness or wrongness of an action according to its likelihood of producing such a world. Kant is concerned simply with deciding whether or not a world in which everyone does what we now propose to do would be one capable of systematically harmonising the purposes of men. The problem is whether or not a world in which there are no exceptions to a maxim, just as there are no exceptions to a law of nature in the physical world, would be capable of allowing men the liberty of pursuing their ends in so far as these ends are compatible with universal principles. A world in which everyone stole would be one where the reasonable ends of men were frustrated. They would not be sure of securing possession of those objects which helped them to perfect themselves and to be happy. For this reason the individual who proposes to steal (on the assumption that there are no extenuating circumstances) would be in violation of rational principles regulating the actions of humans.

This idea is made more evident in Kant's idea of rational human beings belonging to a kingdom of ends 'on the analogy of a kingdom of nature'. Now according to Kant it is useful to presuppose that nature is governed by a teleological principle which moves it towards its final end. And this serves, Kant believes, as an analogy to be deployed in considering the morality of our acts. It is important to ask if the maxim of our action will assist or delay the realisation of that condition where the ends of men are systematically related. We are to ask in short whether or not a condition (where everyone did what we now propose to do) would bring nearer the realisation of the

kingdom of ends - that condition where men are at liberty to pursue their ends within the framework of universal principles which emanate from their individual wills. If such universalisation would bring such a condition nearer, or at least do nothing to frustrate it, then the action could be performed.

There are two further points to make in order to conclude this brief exposition of Kant's moral philosophy. First of all, in asking whether or not an action would result in a particular condition - the fullest harmony of human purposes - the individual is not judging his action according to its likely consequences. It is a fundamental part of Kant's moral philosophy that an act is not judged solely by its consequences. Indeed, were this the case a moral act would be no different from a prudential act since it would be selected out of the belief that it was an efficient means to a particular end. For Kant, a good act ought to be performed not because of its consequences *per se*, but because it can be universalised and because it treats men as ends in themselves. This is, according to Paton, the essence of morality while the concern about an act's ability to bring about the systematic harmony of purposes among men is merely a technique or test whereby beings which are less than moral clarify what they ought to do.<sup>1</sup> In the second place, man's end is the establishment of a society where all men have their liberty to pursue their ends within the terms of a morality which applies to all. As Paton puts it:

'The ideal set before us is a community of rational persons, obeying the same moral law for its own sake, respecting each other's freedom, and in this way striving to realise a harmonious system of ends such as can be realised in no other way. The duty of a good

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1. Paton, *op.cit.*, p.157.

man is to act as a lawmaking member of such an ideal community.'<sup>1</sup>

Men have a duty to seek a society in which men obey universal laws which take all their ends into account and harmonise them in such a way that the ensuing condition is compatible with the rational consent of all members. In effect this requires the gradual establishment of a universal civil society within which the obligations men have as men are recognised and protected. Kant's morality leads to a theory of the state and international relations which is radically different from the theories of Pufendorf and Vattel. However, before discussing Kant's international relations theory it is worthwhile contrasting some of the features of his morality with related themes in the thought of Pufendorf and Vattel.

### III

It was noted earlier that the theory of international relations advanced by Pufendorf and Vattel was necessarily linked with particular conceptions of moral philosophy. From the previous section it is clear that Kant's concept of ethics differs fundamentally from either Pufendorf's or Vattel's view. If Kant's ethical doctrine could successfully undermine their views then their defence of the internal point of view would have failed. We should then be in a position to see how Kantian ethics can provide an account of an international society based upon a rational defence of the external point of view.

Let us begin the contrast between Kant, and Pufendorf and Vattel (who, despite their differences from one another, reveal certain similarities when judged from a Kantian point of view) by discussing

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1. *ibid.*, p.190.

further the idea of perfect and imperfect obligation. It will be recalled that Pufendorf believed a man could not be compelled to do what is required by 'a mere duty to humanity'. An obligation can only be enforced between men who have agreed what they are willing to perform among themselves and have subsequently submitted to a common sovereign. Moral rules are not perfectly obliging in themselves, but require the sanction of positive law. Correspondingly, these moral rules are not perfectly obliging in the relations between states since these can survive without society and without agreeing on particular duties which require the establishment of a common sovereign. Vattel maintained the distinction between perfect and imperfect obligation although for him the distinction was made with reference to the idea of duties to the self. The individual or the state can only submit itself to a perfect obligation when it is convinced that this is compatible with its obligations to perfect itself. The individual and the state are granted a fundamental liberty to decide their obligations (within the state of nature), a liberty which is clearly at odds with the idea that individuals or states are obliged to treat each other as equals under the same moral law. For this reason Vattel shares with Pufendorf a non-progressive theory of international relations. Neither self-interest nor desire to perfect oneself requires the abolition of the international state of nature. The distinction between perfect and imperfect obligation also excludes any fundamental obligation to supersede this international state of nature. It is the case then that the distinction between perfect and imperfect obligation underlies the view that the state system is a 'climax' rather than a 'dominant'.

From the preceding section it would seem likely that Kant would reject the motive for distinguishing between perfect and imperfect

obligation. The individual is bound to consider his actions with reference to his ability to universalise the maxims underlying them. The nature of morality is its constraining influence upon individuals who are always likely to wish to place their personal inclinations and interests before those of others. There would be no point to morality if it were to be interpreted by individuals considering their particular desires. If a man has a moral right then he is authorised to use coercion to protect it, since " 'right' (or 'justice') and 'authorisation to use coercion' mean the same".<sup>1</sup> If a man has a right then he has 'immediately' the authority to protect it and cannot allow it to be infringed simply on the basis that another finds the corresponding obligation in conflict with his self-interest or perfection. According to Kant the individual cannot judge a course of action simply with regard to its consequences for his own interests and happiness. He must ask himself if he can allow the same course of action to similar persons in similar situations. If he could not do this then he would be wrong to perform the act. Although we have found the concept of universalisability in the writings of Pufendorf and Vattel as a test for a right action, its strictness is immediately relaxed by allowing the individual the liberty of deciding the extent to which he can honour his moral obligations. But this method is not acceptable to Kant. His objection centres on the point that particular empirical objectives (perfection and happiness, for example) are made into the test of the capacity to perform moral obligations. Pufendorf and Vattel begin with particular individual objectives and proceed to discuss the extent to which individuals can honour the obligations

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1. *The Metaphysical Elements of Justice* (translated by J.Ladd), New York 1965, p.37.

they have as men. According to Kant this is inadequate in that these individual objectives ought themselves to be tested for their rationality by moral principles. Kant had objected to the method of Wolff (which is also the method of Vattel) on the grounds that one cannot take for granted some particular human objective, in this case perfection, and employ it in the relaxation of the binding moral law.<sup>1</sup> To do this is to subordinate the world of reason to the world of inclination. On the contrary human objectives must be tested by reason in order to discover whether or not they can be universalised. It is this test upon which their moral status depends.

Let us now consider the consequences of applying Kant's moral philosophy to the objectives which humans are held to have by Pufendorf and Vattel. With regard to Pufendorf there are two aspects to be considered. The first point is the view that the separate political association has the right to consider its interests first and foremost in the state of nature, subject to the qualification that it should not impose considerable costs on others in order to gain trivial benefits for itself. The second point concerns the view that the political association is only perfectly obliged when it agrees with others upon those duties which are to be performed. In this case, perfect obligation is inseparable from reciprocity for a state would not be so obliged unless there was to be some benefit in return.<sup>2</sup>

The first point is closely related to the doctrine of 'ethical

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1. On this point see K. Ward, *The Development of Kant's View of Ethics*, Oxford 1972, pp. 85-86.
  2. These points correspond to the first two of the five features in Pufendorf's thought, see above p.118.

egoism'.<sup>1</sup> According to this doctrine the individual or state would be entitled to pursue its own interests regardless of the consequences for others, and would take account of the interests of others only when so doing will have good consequences for its own. The doctrine is described as ethical as the individual who believes he has the right to pursue his own interests also grants that others have the right to pursue their interests too. In this way egoism becomes universalised. If x has the liberty of pursuing his own interests exclusively, then everyone else must have this liberty also. Therefore, if x universalises his own egoism he is committed to allowing other men to pursue their own interests although these should prove harmful to the interests of x. Surely the egoist must hope that other men will not exercise their entitlement to pursue their own interests in such a way as to harm his own interests, which are after all his main concern. Evidently, the egoist who universalises his position creates problems for himself. Now it would be true that if other men did harm his interests and if he was in a position to harm theirs it would be possible for egoists to attempt to come to some arrangement which gives every egoist something of what he wants. But an arrangement like this can never be wholly satisfactory to an egoist, because he knows that if others did not exist, or were not in pursuit of their interests, he would gain as a result. Other men must always appear to be obstacles to the advancement of his own ends. Therefore, for the egoist to remain consistent it is necessary that he remain dissatisfied with any compromise or mutual arrangement. Moreover, while he takes account of the interests of others only insofar as they contribute to his own

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1. For a discussion of this doctrine see B. Meldin, "Ultimate Principles and Ethical Egoism", in D.P. Gauthier, *Morality and Rational Self-Interest*, New Jersey 1970, pp. 56-63.

satisfaction, he can be accused of treating men as means to his own ends. While the egoist may universalise his egoism it is evidently a misnomer to regard his position as ethical as he can never regard the ends of other men to be equal to his own.

Now Pufendorf is not a complete ethical egoist although part of this doctrine is certainly incorporated within his international relations theory. As it is possible to conclude that the argument that states may pursue their own interests is defective, Pufendorf's theory must be held to suffer as a result. Pufendorf's second point that individuals become perfectly obliged because it is in their interest to do so is equally defective. While it shares some of the difficulties of his first point - most noticeably in failing to treat the ends of others as independently valuable - it has problems of its own. According to Pufendorf men avoid perfect obligations at the international level since they have no benefits to gain from a civil society embracing the whole of mankind. It is not in their interest to come to reciprocal arrangements with every other man on the face of the earth. This idea contains the assumption that there is no need to help another poorer than oneself (however defined) unless he is able to perform some benefit in return. Although Pufendorf does not advise men to act on this uncharitable maxim, it is evident from what has been said that he does not think that states are perfectly obliged to help one another without some actual or potential benefit to themselves in return. Now this again contains something of that doctrine called ethical egoism. The problem for this doctrine here is whether or not an ethical egoist, who is unprepared to help another without a benefit in return, can happily exist in a condition where there is no unconditional kindness. An egoist believes that as long as he does

not need help there is no need to extend any to others. However, if his situation changed so that he was in need of assistance he could not reasonably refuse unconditional assistance from others without contradicting that concern for himself which underlies his egoism. A man would not be an egoist if he was not prepared to be the beneficiary of an unconditional act of kindness. Pufendorf's second point is no more satisfactory than his first, since it is possible to conceive of situations where egoism as a doctrine would not be in the interest of the egoist. There is also the problem that Pufendorf's first point may be in tension with his second. If men were only to receive benefits on a principle of exchange the self-interested individual or state might suffer, as there are situations when it is in his interest to receive some unconditional assistance from another.

Pufendorf's two main principles regarding self-interest are unacceptable. And since these are the two principles which led to the abandonment of a rigorous interpretation of the moral law by way of an argument for the division of men into separate sovereign states, it is now necessary to reconsider the status of the three other points made by Pufendorf in his argument for such a division. Neither the view that individuals cannot assist all men to the same degree, nor the view that men cannot know how best to help each other, nor the view that the moral law is insufficiently precise to serve to order political relations, can provide a justification for the division of humanity into states possessing the right to advance their own interests first and foremost. So without the principles of self-interest and reciprocity Pufendorf's account of the legitimacy of a world divided into separate, sovereign states is untenable. And, as

we have seen, there are good moral reasons for discarding those two principles. For this reason Pufendorf's defence of the internal point of view of obligation cannot be upheld.

Let us now consider the status of Vattel's principles. Of particular interest in the evaluation of Vattel's position is his concept of the duty to the self. Kant's own attitude towards this concept is unmistakably critical:

'the one who binds could always release the one bound from the obligation. Therefore, if both are one and the same subject, then he would not be bound at all by a duty he imposes on himself, and this involves a contradiction.'<sup>1</sup>

Now Kant does not dispose outright of the concept of a duty to the self within his own theory although his idea of it has a quite different function from that imagined by Vattel. When Kant refers to the duty to oneself he includes the duty of perfecting oneself morally. A human being has the duty of treating rationality in his own person as an end in itself - which involves the development of one's capacity to be moral. For Kant the obligation of perfecting oneself is necessarily related to promoting the well-being of others (in accordance with universal principles) by virtue of the fact that one is promoting oneself as a moral agent. Vattel's concept of the duty to perfect oneself does not involve the idea of duties to others but rather of rights against others. This point is made very clear in Singer's interpretation of a duty to oneself:

'To say that someone has a duty (or owes it) to himself to do something is an emphatic way of asserting that he has a right to do it - that there are no moral considerations

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1. *Metaphysical Principles of Virtue, op.cit., p.77.*

against it - and that it would be foolish or imprudent for him not to.'<sup>1</sup>

Now in order to arrive at a conclusion similar to this, Vattel would have to have tested the ends individuals and states set for themselves, and indeed there is a principle of equality and universality in Vattel's writings which would enable him to do just this. However, Vattel is unprepared to test these ends and leaves the individual or the state the right of deciding how far it can honour its obligations to others given its duties to itself. It is reasonable to leave the individual or the state a certain area of latitude in respect of decisions concerning how moral to be. As we shall see Kant was concerned to take this into account in his ethics and in his theory of international relations. No doubt Vattel was concerned with this too. However, the recurring theme in Vattel's argument for such latitude is the preservation of the liberty of the state. There is an unwillingness in Vattel to apply his own universalist ethic to all the ends of the state. This point finds particular expression in the argument for the preservation of the state's right to decide whether or not to submit its disputes to arbitration. Vattel's pluralist account of international relations depends upon the establishment of an area of freedom from independent moral judgment for the state. It is nowhere more obvious than in Vattel's thought that the concept of a universal morality cannot easily co-exist with the state-system. When taken more seriously than by Vattel the concept of a universal morality must be employed to test all the ends of states in order to promote a systematic harmony of purposes among them. To leave states the liberty of deciding their ends without reference to a universal

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1. M.G. Singer, *Generalisation in Ethics*, London 1963, pp. 314-315.

morality is to sanction an area of choice which could not be rationally agreed upon. For to consent to a state having such liberty is to permit it to ignore the ends of others, or consider the ends of others to be less important than its own. It is in short to allow man to be unequally treated without good reason. And for this reason Vattel's account of the state-system is as unacceptable as that presented by Pufendorf.

Let us before turning to Kant's discussion of the distinction between perfect and imperfect obligation which he wishes to make now turn to a possible line of argument that might be used to defend Pufendorf and Vattel. It might be argued that although there are philosophical inconsistencies in their theories, there are nevertheless important insights into the conditions in which states must act, which must be expressed within the theory of international relations even if not in the manner attempted by these writers. It might be argued that Pufendorf and Vattel were concerned with a particular context where only limited agreement is possible or where the question 'what if everyone did that?' is not applicable. Everyone is doing that already.<sup>1</sup> In this condition, it might be argued, states have no choice but to consider their own interests first and foremost, and no choice other than to take account of the interests of others only insofar as other states are prepared to enter into reciprocal arrangements. This condition is not, then, one in which a state should be encouraged to unilaterally act in accordance with the categorical imperative. Let us consider, for example, Hume's point:

'that it should be a virtuous man's fate

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1. 'State of nature situations' are discussed by Singer, *ibid.*, pp. 152-161.

to fall into the society of ruffians, remote from the protection of laws and government; what conduct must he embrace in that melancholy situation? He sees such a desperate rapaciousness prevail; such a disregard to equity, such contempt of order, such stupid blindness to future consequences, as must have immediately the most tragic conclusion, and must terminate in destruction to the greater number, and in a total dissolution of society to the rest. He meanwhile can have no other expedient than to arm himself, to whomever the sword he seizes, or the buckler, may belong: To make provision of all means of defence and security: And his particular regard to justice being no longer of use to his own safety or that of others, he must consult the dictates of self-preservation alone, without concern for those who no longer merit his care and attention.'<sup>1</sup>

If it were to be maintained that this situation is commonly found among states it would have to be said that the whole statement is question-begging assuming as it does that justice is of no value simply because it does not increase safety. Even in this state of nature there is a possibility of moral experience as well as a possibility that a skilful use of moral principle will enable men to escape from their condition. It is not necessary then that moral rules be suspended so that states can act simply in their own interests, or that the morality may be held to bind merely in conscience while states retain the liberty of deciding the extent to which they can be moral. Neither of these positions is an acceptable account of right conduct in the state of nature, overlooking as they do the means whereby moral principles could be applied even in those conditions.

To say that in the state of nature 'anything goes' or that each person is the sole judge of how he ought to behave is to overlook the fact that even there rational men could form ideas of proportionate

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1. Quoted by Singer, *ibid.*, pp. 154-155.

and disproportionate departures from right conduct. A man who lies in order to preserve himself from violent men can hardly entertain the proposition that others have thereby a right to kill him. His obligation to tell the truth must be held to have lapsed in such mitigating circumstances and any 'punishment' ruled out as being inappropriate. Rational agents in the state of nature would have to specify the conditions which have to be satisfied before a man can depart from otherwise binding rules of morality. Indeed, it is likely that only through considerable experience and practice would men be able to formulate such principles. And this process would constitute an enlargement of the moral community through recognising that ordinary rules of conduct are not fundamental rules but departures from fundamental rules for the specific purpose of providing reasonable guidance for men in an insecure condition. Realising this, rational men would be obliged to consider the extent to which such rules as ordinarily govern them can be justified. The problem before them is 'Given the nature of the condition before us, are we justified in regarding the rules which normally govern us as reasonable departures from fundamental moral principles?' Rational persons in this condition have to see their rules as departures from more fundamental moral principles and proceed to ask if they have departed from such rules in a proportionate or disproportionate manner. Indeed, the rules may be found to possess a rationality and not need to be changed. On the other hand, existing rules may depart disproportionately from fundamental moral obligations, in which case it is the duty of persons to seek to eliminate the gap. Whatever the case it is necessary that universalisability should govern the rules of departure and that these rules should apply to all persons or states in similar

circumstances.

The fact that such rules govern all persons or states equally indicates that persons or states are not at liberty to formulate unilateral conceptions of how best to behave. Persons or states are after all under an obligation to behave morally and if it is impossible to achieve this perfectly, at least such departures as do exist should be governed by universal principle. Indeed, the regulation of departures from fundamental moral principle must only be a transitional step until states can regulate themselves with regard to those fundamental moral principles themselves. If states are to be granted the right of choosing exactly how to behave it is difficult to imagine how they could ever leave their state of nature or gradually move away from the condition they are bound to abolish if their relations are to be grounded upon moral principles. Let us consider Hobbes with reference to this point. He believed it was a fundamental law of nature 'That every man ought to endeavour peace, as far as he has hope of obtaining it'.<sup>1</sup> He maintains in the second law of nature 'That a man be willing, when others are so too, as farre-forth, as for Peace, and defence of himself he shall think it necessary, to lay down this right to all things; and be contented with so much liberty against other men, as he would allow other men against himself.'<sup>2</sup> Hobbes also wishes to say, however, that a man 'may seek, and use, all helps, and advantages of Warre'.<sup>3</sup> Now this would appear to exclude any principle of proportionality or any period of transition between the state of nature and the condition of civil society. There would appear

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1. Hobbes, *Leviathan*, Penguin 1968, p.190.

2. *ibid.*

3. *ibid.*

to be no possibility of the existence of a period in which men through their own reason establish principles which minimise the level of arbitrary conflict or disproportionate violence and prepare the way for a move towards a civil society by gradually moralising their actions.<sup>1</sup> What is required then is not merely a moral philosophy which sets the goals rational agents should pursue, but one which considers the transitional steps towards such a condition - and is therefore aware of the situations in which persons must act. Let us now consider Kant's ethics with this point in mind.

Kant is of particular interest within the boundaries of this thesis in his use of the distinction between perfect and imperfect obligation in order to come to terms with this problem. We shall note in the next section how it is brought to bear upon the conduct of international relations. At this stage it is important to point out that this distinction differs from the one found in either Pufendorf or Vattel. This is made evident in the following quotation:

'But by a broad duty is not understood a permission to make exceptions to the maxim of the actions, but only the permission to limit one maxim of duty by another (e.g., the general love of one's neighbour by the love of one's parents); and this in fact broadens the field for the practice of virtue. The broader the duty, the more imperfect, therefore is one's obligation to an action ... Imperfect duties are, therefore, merely duties of virtue. The fulfilment of them is virtue but their transgression is not forthwith an offence but merely moral unworth, unless the subject made it a principle not to conform to these duties.'<sup>2</sup>

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1. Given Hobbes' account of a 'right of nature' in terms of a 'right to all things', and his view that there is no morality without government and law, it is impossible for him to enter into serious discussion of moral principles for the regulation of that period between the state of war and the condition of civil government.
  2. *The Metaphysical Principles of Virtue*, *op.cit.*, p.48.

One is not permitted to make an exception on account of one's desire to pursue one's interests or maintain one's liberty from the moral judgement of others. An exception to a principle is only acceptable if it is itself governed by a principle.

Furthermore, a duty may be considered imperfect if there is latitude in the time or manner of its fulfilment. This is best considered with reference to Kant's remarks about treating others as ends rather than merely as means. For reasons discussed earlier, treating others merely as means is excluded by Kant's moral philosophy. We may be regarded as perfectly obliged not to treat others in this way. In addition Kant also argues that men have an obligation to treat others as ends in themselves and so are bound to advance the ends of others insofar as circumstances allow. But here men have latitude regarding the best way in which to discharge this obligation since there may be alternative ways of promoting the ends of others, in addition to constraints imposed by the environment which make such promotion difficult or impossible.

Both of these imperfect obligations have their part to play in Kant's international relations theory. Kant believed that states were obliged to bring about a moral community at the international level, to bring reason to the forefront of political relations by gradually expanding the boundaries of moral community. This is in accordance with Kant's belief that the state-system is not a climax but a dominant and that states are obliged to move as far as possible towards perpetual peace. But given their condition - an international state of nature - they must reserve the right to realise this freedom without jeopardising what has already been established, namely moral and political communities at the local level. In this way Kant sets a

goal which goes beyond those asked by the theories of Pufendorf and Vattel, while the distinction between perfect and imperfect obligation is an explicit recognition of the fact that men 'are already burdened with difficulties involved in acting rightly'. In addition, the duty, which each man has, to advance the happiness of others is imperfect since its content is necessarily varied. Nevertheless, it is a duty which embraces all men and requires fundamental changes in the ways in which they conduct their external relations. It is to Kant's theory of international relations that we now turn.

#### IV

From what has been said of Kant's moral philosophy in previous sections it can be concluded that he was opposed to what has been described as the internal point of view. All men, by virtue of their rational nature, are governed by the same moral law and are obliged to bring into being a condition which harmonises their ends. This moral goal can only be accomplished through the radical alteration of the political condition in which men live. In particular, for Kant moral progress requires the reorganisation of the manner of conducting the external relations of states so that eventually an international moral order will exist. To highlight Kant's opposition to the internal point of view and his acceptance of the external point of view this section will discuss his international relations theory under three sub-sections used in previous sections; the theory of the state's rights; the nature of the ethic of the private person and the sovereign; and the theory of international co-operation.

The Rights of States

Kant is at one with Pufendorf and Vattel in maintaining that the development of a universal state is an impossibility. Kant contends that the separation of states:

'is however better, according to the idea of reason, than the fusion of all states into a universal monarchy by one power that has outgrown all the rest and subjected them to its sway. This is so because the laws always lose something of their definiteness as the range of a government becomes enlarged; and soulless despotism when it has choked the seeds of the good, at length lapses into anarchy.'<sup>1</sup>

Kant is in agreement with, for example Montesquieu, that the division of powers within and between states is a condition of human freedom. And so his preliminary remarks are concerned with the defence of the rights of peoples to preserve their separate political constitutions. He argues that men have an inalienable right to form a state and proceeds to argue that states at war must not take action which would cause each other 'to disappear from the face of the earth' as this would comprise 'an injustice against the people, who cannot lose their original right to form a commonwealth'.<sup>2</sup> The state is a society established according to the 'idea of the original Compact without which a right over a people is inconclusive'.<sup>3</sup> And it is limited groups of people who have the right to form such contracts among themselves.

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1. *Perpetual Peace in The Theory of International Relations, op.cit.*, p.223. Kant added that 'the differences of their languages and of their religions' prevented 'the peoples from intermingling', although 'as civilisation increases, there is a gradual approach of men to greater unanimity in principles, and to a mutual understanding of the conditions of peace even in view of these differences'.
  2. *Metaphysical Elements of Justice, op.cit.*, p.123.
  3. *Perpetual Peace, op.cit.*, p.201.

But having said this, Kant proceeds to agree with Rousseau's powerful commentary on the international state of nature. He is with Rousseau in asserting that the state abolishes the problem of the state of nature among individuals only to create a new and more terrible conflict at the international level. Rousseau had said that with the rise of states men 'committed more murders in a single day's fighting ... than were committed in the state of nature during whole ages over the whole earth'.<sup>1</sup> But while Rousseau could see no possibility of overcoming international conflict, Kant believed its solution was possible, at least in principle. However, he was clearly of the mind that the formation of the separate state could not be regarded as final:

'What avails it to labour at the arrangement of a Commonwealth as a civil constitution regulated by law among individual men? The same unsociableness which forced men to it, becomes again the cause of each Commonwealth assuming the attitude of uncontrolled freedom in its external relations, that is, as one state in relation to other states; and consequently, any one state must expect from another the same sort of evils as oppressed individual men and compelled them to enter into a Civil Constitution regulated by law.'<sup>2</sup>

Now according to Kant, freedom (i.e., 'independence from the constraint of another's will, insofar as it is compatible with the freedom of everyone else in accordance with a universal law, is the one sole and original right that belongs to every human being by virtue of his humanity').<sup>3</sup> But this freedom remains insecure in the state of

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1. Rousseau, *Discourse on the Origins of Inequality*, *op.cit.*, p.206.
  2. *Idea for a Universal History from a Cosmo-political Point of View*, in Forsyth *et.al.*, *op.cit.*, p.183.
  3. *Metaphysical Elements of Justice*, *op.cit.*, pp. 43-44.

nature where each man is at liberty to act on the basis of what seems good and right to him. Man's fundamental obligation is to leave the state of nature in which he possesses and exercises his individual judgment and submit to a juridical condition. The protection of law enables men to exercise their freedom in accordance with universal moral principles. Government, then, is not a question of giving up rights in order to safeguard one's interests and promote one's welfare. It is a duty in accordance with the universal laws that govern all men in order that men have a condition within which they may reach a higher level of moral experience. Therefore, although Kant upholds the right of persons to establish government among themselves he is not content to allow separate states to remain in a natural condition of liberty.

Since the state does not come into existence to promote only the interests of its members, Kant will not allow that the state has a right to enact any internal point of view. He rejects, for example, the liberty of the state to ground its external relations on power and he does not accept that the state can promote the interests of others only when it stands to benefit itself. The state comes into existence to protect freedom, and since all men have the right to have their freedom respected, it follows that the state is obliged to conduct its external relations in such a way that its exercise of freedom will not jeopardise the equal freedom of others. States which ground their relations on power alone are in conflict with the moral order, and it is for this reason that Kant declares that condition, in which states are subject only to themselves, intrinsically unjust. Kant says of the international state of nature:

'This condition is a state of war (the

right of the stronger), even though there may not be an actual war or continuous fighting (hostility). Nevertheless (inasmuch as neither side wants to have it better), it is still a condition that is in the highest degree unjust, and it is a condition that states adjoining one another are obligated to abandon.' <sup>1</sup>

The international state of nature is unjust (as was that state of nature among individuals) because rights are not treated on their merits. It is a chance factor, the relative power of states which decides how states are treated. However, since men are rational, their relations must be grounded on the necessary moral laws of their nature and their rights cannot be left at the mercy of such a contingent factor as the configuration of power. States are obliged (as men were earlier) to ground their relations on the recognition of just principles which requires in turn the free federation of nations to ensure that external political relations are regulated by the moral law:

'every state, including even the smallest, may rely for its safety and rights, not on its power or its own judgment of Right, but only on this great International Federation (Foedus Amphictionum), on its combined power, and on the decision of the common will according to laws.' <sup>2</sup>

Unlike Pufendorf, Kant maintains that men ought to contract with each other to indicate their desire to exist in a condition of justice.

The extension of moral community requires a universal contract:

'But the state of Peace cannot be founded or secured without a compact of the nations with each other. Hence there must be a compact of a special kind which may be called a Pacific Federation (Foedus Pacificum) and would be distinguished from a mere treaty

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1. *Metaphysical Elements of Justice, op.cit.*, p.116.

2. *Idea for a Universal History, op.cit.*, pp.183-184.

or Compact or Peace (pactum pacis)  
 in that the latter merely puts an end  
 to one war whereas the former would seek  
 to put an end to all wars forever.'<sup>1</sup>

In this way the state discharges its obligation to take part in an international moral community where each member acts in accordance with universal law. The state does not have a right to remain in the international state of nature but must take its place within such an international community where men attempt to systematically harmonise their purposes. Kant's ethic cannot permit the state any rights in opposition to such an ideal.

#### The Morality of the Private Person and the Sovereign

Since all rational beings are bound by the same moral law, both private persons and statesmen must ultimately be referred to the same system of morals. Whether or not Kant thought that the role of statesmen was sufficiently different from the roles of private persons to require a substantially different ethic is impossible to say as he offered no systematic discussion of this subject. Nevertheless, given his position on the rights of states it seems reasonable to infer that all men have international obligations although statesmen by virtue of their roles may have significantly different duties to perform. By applying these obligations in their political relations men would eventually create a cosmopolitan political society which would be the culmination of man's rational and moral capacities.

However, Kant did not think that this world political society would be the creation of reason alone. Rather since 'history is the process by which man becomes rational, he cannot be rational at the

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1. *Perpetual Peace*, *op.cit.*, pp.212-213.

beginning'.<sup>1</sup> In asserting that to understand history it is necessary to assume that nature has a purpose in history, Kant wished to suggest that nature employed human passions in order to bring about a deepening and enlarging of man's rational capacities. He believed, for example, that war was nature's way of teaching man by experience what he could have discovered had he been more rational - namely, the need on moral grounds for a civil society for the whole of mankind. However, man belongs to the world of inclination as well as to the world of reason, so that the fuller development of his rational powers can only emerge in the course of a historical process. Men are capable of pursuing limited goals 'while the whole as such is viewed as too great for them to influence and as attainable by them only by idea'.<sup>2</sup> Nevertheless, the situations they arrive at through pursuing their inclinations develop their reason and lead them to consider new political possibilities. Kant appeared to believe, to use a distinction used earlier, that men had to be causally connected before they could become morally connected:

'Finally the war itself comes to be regarded as a very hazardous and objectionable undertaking, not only from its being very artificial in itself and so uncertain as regards its issue on both sides, but also from the afterpains which the state feels in the ever increasing burdens it entails in the form of national debt - a modern infliction - which it becomes almost impossible to extinguish. And to this is to be added the influence which every political disturbance of any state of our continent - linked as it is so closely to others by the connections of trade - exerts upon all the states and which becomes so observable that they are enforced by their common danger, although without lawful authority, to offer

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1. H. Reiss, *Kant's Political Writings*, Cambridge 1971, p.38.

2. *On the Commonplace: That may be correct in Theory but is useless in Practice*, in Forsyth *et al.*, *op.cit.*, p.192.

themselves as arbiters in the troubles of any such state. In doing so they are beginning to arrange for a great future political body, such as the world has never yet seen. Although this political body may as yet exist only in a rough outline, nevertheless, a feeling begins, as it were to stir, to stir in all its members, each of which has a common interest in the maintenance of the whole. And this may well inspire the hope that after many political revolutions and transformations, the highest purpose of Nature will be at least realised in the establishment of a universal Cosmo-political Institution, in the bosom of which all the original capacities and endowments of the human species will be unfolded and developed.<sup>1</sup>

Although self-interest would appear to be crucial in assisting the development of a world political community men eventually reach a stage (Kant does not indicate when this will be reached) when they are responsive to the laws of reason. And indeed Kant proposes a number of moral considerations which ought to influence states in the conduct of their external relations. Furthermore, Kant's defence of an international political community does not depend upon arguments in terms of consequences for interests, but in the terms of moral duty. Kant's defence of an international community repudiates the instrumental view of co-operation which was so fundamental to those theories which formulated an internal point of view.

Of those moral principles which Kant believes men should follow in order to create a 'systematic harmony of purposes' as widely as possible, some are addressed to all men and some more particularly to those who enact the role of statesman. Of those which oblige all men first place should be given to the idea of the republican constitution which was that system which best represented the nature of

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1. *Idea for a Universal History*, *op.cit.*, p.188.

men as ends in themselves. Now in the establishment of such a constitution men were not simply obtaining a recognition for their own rational nature but were creating a political society more able than others to incorporate itself within an international political community. For a republican constitution was one in which men were treated as ends in themselves, and would by its very nature provide a core around which other states could gather to form a free federation. A man taking his place within a republican constitution may also see himself as taking part in a historical process which will eventuate in the establishment of a world order which treats men as ends in themselves. This point reflects Kant's view that moral progress at the international level depends upon 'a long internal process of improvement' within each commonwealth.<sup>1</sup> This is a reminder of an earlier point that progress at the international level requires more than a mechanical re-arrangement of the relations between states. It requires a re-definition of the obligations of citizens to outsiders. Insofar as the separate state has nothing in its nature which makes it inevitably prone to international conflict, and everything in its nature which makes it prone to becoming incorporated within an international community, it would have to be according to Kant a republic. And it has this tendency towards a particular kind of international community because it is its very nature that men be respected as ends in themselves.<sup>2</sup>

As far as the sovereign is concerned, Kant regards him as

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1. *ibid.*, p.186.

2. Kant added that 'the Republican Constitution, in addition to the purity of its origin as arising from the original source of the Conception of Right, includes also the prospect of realising the desired object: Perpetual Peace among the nations'. The reason for this is that the citizen body would be 'very loth' to commit itself to taking part in 'all the horrors of War'. *ibid.*, pp.207-208.

bound by a 'double function'.<sup>1</sup> His duty is certainly towards preserving and protecting his state (according to the moral law), but also to create the conditions in which the highest political good will become possible. In order that this political good can be approached Kant emphasises the value of mutual faith - presumably as one of the necessary conditions of any enlargement of community. This value requires the elimination of certain practices in war, for example assassination and poisoning; but it requires a great deal more, namely an increased sensitivity to the maxims underlying foreign policy. Kant regards the solution of international conflict and successful international co-operation to rest in an increased concern for acting in accordance with maxims which can be universalised. And, of course, by recommending this approach Kant is applying the main principles of his ethics to the relations between states. To judge the rightness or wrongness of an action on the international plane it is necessary to test it by considering whether or not its universal adoption would hasten or postpone the attainment of a world-wide 'systematic harmony of purposes'. Kant's recommendation that this is the test of the acceptability of a foreign policy act is indicated by the following words:

'But what, then, is an unjust enemy according to the concepts of the Law of Nations, which hold that every state is a judge in its own cause as in a state of nature in general? An unjust enemy is someone whose publicly expressed will (whether by words or by deeds) discloses a maxim that, if made into a universal rule, would make peace among nations impossible and would perpetuate the state of nature forever.'<sup>2</sup>

Kant is quite clear that statesmen are obliged to make sure the maxims

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1. See above, p.53, for a description of this expression.

2. *The Metaphysical Elements of Justice*, *op.cit.*, p.123.

of their foreign policy acts can be universalised - even in the state of nature. Furthermore, right acts are defined in the state of nature in accordance with their compatibility with one fundamental obligation, namely the abolition of the state of nature itself. Kant maintains that 'all men who can reciprocally influence each other must stand under some civil constitution', therefore right conduct has to have the specific aim of removing obstacles to that goal and positively advancing it.<sup>1</sup> Furthermore, it is the sovereign, who is authorised to act on behalf of the state, who has the specific obligation to work with others to attain this end:

'If certain defects which could not be prevented, are found in the political constitution, or in the relations of the state, it becomes a duty especially for the heads of the state to apply themselves to correct them as soon as possible, and to improve the constitution so that it may be brought into conformity with natural right.'<sup>2</sup>

This principle reflects the fact that the move towards the goal of 'perpetual peace' requires the collaboration of sovereigns who have particular obligations to work for the good of the international community. Let us now turn to a more detailed discussion of Kant's approach to international co-operation.

#### The Theory of International Co-operation.

Men who can 'reciprocally' affect one another are bound to progress towards that condition where their relations will conform to principles of law. States, like individuals, are obliged to establish the rule of law among themselves which involves giving up their 'wild,

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1. *Perpetual Peace*, *op.cit.*, p.206.

2. *ibid.*, pp.228-229.

lawless freedom' for the legal freedom of the civil condition.<sup>1</sup>

States will form a federation but not a universal state above them all:

'This Federation will not aim at the acquisition of any of the political powers of the state, but merely at the preservation and guarantee for itself, and likewise for the other confederated states, of the liberty that is proper to a state, and this would not require these states to subject themselves for this purpose - as is the case with men in the state of nature - to public laws and to coercion under them.'<sup>2</sup>

Kant was of the opinion that states could regulate themselves in accordance with the moral law, although in the face of violation of fundamental law they could 'unite' to protect their freedom from any state which threatened it. However, their goal is that condition where 'There will be no war' since 'this is not the way in which anyone should prosecute his rights'.<sup>3</sup> The perfect expression of man's capacity to be rational and moral is his submission to the law of the international community so that 'nations will settle their differences in a civilised way by judicial process, rather than in the barbaric way (of savages), namely, through war'.<sup>4</sup> Accordingly, each man's freedom will have legal guarantee and will be compatible with equal freedom for others - a condition which enables each man to pursue his ends and realise his capacities without infringing the rights of other men.

Kant's theory is then most certainly a theory of international co-operation in its literal sense - that is, collaboration between

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1. *The Metaphysical Elements of Justice*, *op.cit.*, p.81.

2. *Perpetual Peace*, *op.cit.*, p.213.

3. *Metaphysical Elements of Justice*, *op.cit.*, p.128.

4. *ibid.*, p.125.

equal states in order to establish a legal order among themselves. It is of particular interest to consider Kant's views as to how men might gradually bring moral rules to bear upon their external political relations. He was of the opinion that states must progress gradually rather than endanger what they have achieved already 'by overhaste'.<sup>1</sup> Certain obligations need not be discharged immediately if conditions are not favourable. Some laws 'include permission to delay their fulfilment without, however, losing sight of their end; for their end allows such delay'.<sup>2</sup> Not all obligations have equal value or are of the same urgency and states have a certain latitude regarding their implementation. In language reminiscent of his distinction between perfect and imperfect obligations, Kant refers to 'strict laws' which are 'valid without distinction of circumstances, and press immediately for the abolition of certain things' and those rules which have 'a certain subjective breadth in respect of their application' as 'they imply a regard to circumstances in practice'.<sup>3</sup> Those rules which Kant describes as strict include the duty to avoid endangering 'mutual confidence', the duty of non-intervention and of concluding peace treaties without any secret intention to re-start the war. Those rules which have 'subjective breadth' include the duty not to acquire other states as 'property', the duty of avoiding 'national debts' and of abolishing standing armies 'in the course of time'.<sup>4</sup> While it would no doubt be of advantage to have a different list in the modern world, this list does indicate the bearing of Kant's ethic upon international relations in a practical manner. It indicates his conviction that perpetual peace ought to be approached 'through gradual reform

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1. *Perpetual Peace*, *op.cit.*, p.205.

3. *ibid.*

2. *ibid.*

4. *ibid.*, pp.200-205.

according to fixed principles'.<sup>1</sup>

It is one of the fundamental features of Kant's ethics that individuals and states alike are obliged to conduct their affairs not on the basis of 'one-sided maxims', for which there is no moral justification, but on rules conducive to the realisation of the kingdom of ends.<sup>2</sup> Now one of the principles which Kant regards as 'fixed' and which is employed to assist human beings to test the morality of their maxims is that of publicity. If one is sure that the publication of one's maxim would not lead others to complain of its injustice (presumably, on account of the fact that the state was claiming more for itself than it would allow others), then it can be acted upon:

'For a maxim cannot be a right maxim which is such that I cannot allow it to be published without thereby at the same time frustrating my own intention, which would necessarily have to be kept secret entirely in order that it might succeed, and which I could not publicly confess to be mine without inevitably arousing thereby the resistance of all men against my purpose. It is clear that this necessary and universal opposition of all against me on self-evident grounds, can arise from nothing else than the injustice which such a maxim threatens to everyone.'<sup>3</sup>

Now it is arguable that the publicity principle alone will not suffice as a test. In a condition where one man or state was submissive to

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1. *Metaphysical Elements of Justice*, *op.cit.*, p.129. It is this emphasis upon gradualism that separates Kant from the thinker who most influenced his political writing, namely Rousseau. 'Rousseau is right to criticise historical institutions but they are the germs of future good ones'. Quoted in M. Despland, *Kant on History and Religion*, Montreal 1973, p.49. In addition, Kant remarks in *Perpetual Peace* that 'it would manifestly be contrary to that political expediency which is in agreement with morals, to destroy the existing bonds of National and Cosmopolitan Union before there was a better constitution ready to take its place..' *ibid.*, p.229.
  2. *Perpetual Peace*, *op.cit.*, p.213.
  3. *ibid.*, pp.238-239.

the will of another the publicity principle would not be sufficient. Since Kant is concerned with a principle to the effect that men must be treated as ends in themselves, the principle of publicising one's maxim would only be effective when declared before those who are committed to the idea of the kingdom of ends. For Kant's principle of publicity to be acceptable it would have to be closer to a particular version of the social contract doctrine elaborated by him with reference to the validity of law within the state. Kant refers to the social contract by which the lawful constitution is established and proceeds to state that:

'... we need by no means assume that this contract (*contractus originarius* or *pactum sociale*), based on a coalition of the wills of all private individuals in a nation to form a common, public will for the purposes of rightful legislation, actually exists as a fact, for it cannot possibly be so. Such an assumption would mean that we would first have to prove from history that some nation, whose rights and obligations have been passed down to us, did in fact perform such an act, and handed down some authentic record or legal instrument, orally or in writing, before we could regard ourselves as bound by a pre-existing civil constitution. It is in fact merely an idea of reason, which has nonetheless undoubted practical reality; for it can oblige every legislator to frame his laws in such a way that they could have been produced by the united will of a whole nation, and to regard each subject, insofar as he can claim citizenship, as if he has consented within the general will. This is the test of the rightfulness of every public law.'<sup>1</sup>

The test of a right action, either in domestic or international politics, is its compatibility with the consent of members of the kingdom of ends, who are attempting to create a moral community among all men.

This principle brings Kant into the most direct opposition

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1. Reiss (ed.), *op.cit.*, p.79.

with the ideas of Pufendorf and Vattel. Their theory of international co-operation tended to value co-operation in terms of its consequences for the interests of separate states. Kant's ethical doctrine leads him to explicitly challenge this approach to international co-operation. The principles underlying international co-operation:

'must not start from the prosperity and happiness that are to be expected in each state from following them, nor from the end which each of them makes the object of its will as the highest empirical principle of politics; but they must proceed from the pure conception of the duty of right or justice, as an obligatory principle given *a priori* by pure reason.' <sup>1</sup>

Rational morality rather than 'a standard of conduct ... based on the experience of those who have hitherto found it most to their advantage' ought to underly international co-operation.<sup>2</sup> Kant proposes the most far-reaching critique of the instrumental approach to international co-operation and offers to replace it with a theory of its intrinsic value and obligatory status. It is the duty of rational citizens and the 'moral politician' to apply the idea of justice to the relations between communities so that men complete their history by forming a world-wide moral and political community as required by reason.

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1. *Perpetual Peace*, *op.cit.*, p.236.

2. *Metaphysical Elements of Justice*, *op.cit.*, p.129.

PART THREE

CHAPTER NINEMoral Freedom  
and the  
Theory of International Relations

It has been argued in the course of this thesis that the internal point of view formulated by Pufendorf and Vattel is unacceptable. In particular, while these theorists argued for a moral law which bound all persons they were unprepared to forego the consequences of their individualist premises. And so they argued for the division of mankind into separate, sovereign states and failed to adequately express man's moral nature in the relations between communities.

However, an objection to their formulation of the internal point of view must take account of more than problematic areas in their internal chain of reasoning. For problems arise in the overall approach adopted by these writers. In short, the individualism of these writers has become so exaggerated that their thought suffers from not duly pointing out the dependence of the individual upon the society in which he lives for both intellectual and material needs. In addition, these writers did not make as much as they might have of the fact that man's social and political institutions and ideas have a historical context and are thereby subject to change and development.

It is not part of this argument to maintain that, for example, Pufendorf reduced society to the individual and that he failed to understand that the individual is constituted largely by his social relationships. It is arguable that Pufendorf was aware

of this dependence especially as he makes it clear that the state of nature probably never existed between individuals.<sup>1</sup> According to Pufendorf, men are always to be found in a social condition. But it is not part of seventeenth century man's concern to consider the variety of social conditions in which men are to be found.<sup>2</sup> For a later age, the individualism of Pufendorf's individuals would appear to be no more than a reflection of a particular kind of society,<sup>3</sup> a modern society based less upon 'status' than 'contract'. And the international relations theory based upon this individualism would simply appear to reflect the cultural outlook of what are sometimes referred to as modern societies. It is at a later stage of intellectual history that the variations of culture and the movement of history become fundamental to the outlook of reflective men.

Let us not blame Pufendorf for having lived too early! But let us note one of the difficulties in method which pervades his whole system. If men lived originally in small groups - as indeed anthropology suggests - then their morality was, first of all, a social morality. Men belonged to groups, identified with them completely, and

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1. See above, p.72.

2. 'This process was a moral version of Cartesian doubt, through which seventeenth century thinkers followed their penchant for making a cosmos comprehensible only by first breaking it down to its simplest, interchangeable parts and then reconstructing it from them.' L. Krieger, *The Politics of Discretion: Pufendorf and the Acceptance of Natural Law*, Chicago 1965, p.91.

3. 'This is how it is possible, without contradiction, to be an individualist while asserting that the individual is a product of society, rather than its cause. The reason is that individualism itself is a social product, like all moralities and all religions. The individual receives from society even the moral beliefs which deify him.' Durkheim, in S. Lukes, *'Durkheim's Individualism and the Intellectuals'*, Political Studies, 1969, p. 28.

were therefore far from believing that there was a morality which tied them to outsiders, let alone to the whole of humanity. This point is emphasised by the fact that 'in the early stages of ethics, rights and duties do not attach to a human being as such. They attach to him as a member of a group'. For 'morality is in its origin group-morality'.<sup>1</sup> However, Pufendorf writes as if there was a universal morality ever-present in the minds of individuals even at the earliest stages of human history. But since this is not the case, Pufendorf's method must give way to one more sensitive to the fact that the concept of the individual (and of a morality binding all individuals) is the product of considerable social experience and moral sophistication. A different method (from that of Pufendorf) would have to consider the fact that man's earliest moralities are customary moralities and that it is only in the course of his historical development that man reflects upon his morality, considers himself to possess rights and obligations as a man, which prepare him for the enlargement of his moral community and the eventual identification with that moral community which is mankind itself.

Now, in the course of a move from the customary morality of early societies to the reflective, universalist moralities which many currently hold, it is necessary that the individual should place himself at odds with his society. For he has to free himself from it, in order to enact his 'human' obligations to outsiders. It is important to consider what exactly is involved in this transformation, how it is to be explained and what it can be taken to signify. Two contrasting accounts are possible, the one depending upon a theory of natural law,

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1. Hebbouse, *op.cit.*, p.233.

the other depending upon a philosophy of history.

Traditional natural law theory would argue that the awareness of moral equality, or of obligations to the whole of humanity, arises from the fact that men, by virtue of their common creation, share a common human nature in which is embedded permanent moral truths. There is a basis within human nature for such obligations irrespective of the particular stage of historical development. It is of interest, given this assumption, to consider a possible natural law argument for the failure of early societies to appreciate that such a universal morality exists. According to Yves Simon, a prominent natural lawyer, we should not expect the natural law to be 'known to all men at all times, in all societies, in an equal degree of perfection'.<sup>1</sup> The fact that the natural law is not observed in all times and places is not then a refutation of the fact that the whole of mankind is bound by one moral law. What it indicates is that men have not come to know the nature of this moral law, a law which exists independently of man's knowledge of it. Simon contends that:

'knowledge of natural law is not given all at once, either in the development of the individual man or in the development of mankind ... but is itself subject to a law of graduality in perfection, like everything else human.'<sup>2</sup>

It follows that since the natural law is always contained within human nature it is not itself subject to 'graduality'. It is man's knowledge of the natural law which is alone subject to 'graduality', the natural law remaining true whether man knows it or not. Therefore, the movement from customary, group-morality to the morality of man as such is a development in which man comes to know what was already true.

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1. Yves, Simon, *The Tradition of Natural Law*, New York 1965, p.161.

2. *ibid.*, p.162.

Now the above approach rests directly upon a theology since it maintains that human nature is constituted by God. This invites the question of how the move from group to universal morality might be understood by a philosophical position which did not have this belief or did not grant it such central importance. Let us consider, for example, the view of Rousseau and of Kant that in the course of history men come to conceive freedom not in terms of the independence from others, but in terms of moral life in a community which is regulated by principles which individuals prescribe for themselves. For these thinkers, and for Hegel after them, in the course of their history men have come to consider themselves as being worthy of respect in their own right, as ends in themselves. Referring to the stage through which humanity has evolved, Kant discusses the final stage where man set himself 'above community with the animals' since he claimed:

'... a relation of equality with all rational beings, whatever their rank, with respect to the claim of being an end in himself, respected as such by everyone, a being which no one might treat as a mere means to ulterior ends.... This is because of his reason -- reason considered not insofar as it is a tool to the satisfaction of his inclinations,<sup>1</sup> but insofar as it makes him an end in himself.

It is in the course of history, then, that men come to see themselves as ends, that is as beings whose nature demands that they are so recognised. Their self-conception does not depend upon a process whereby men come to understand what was always objectively true. It depends rather on their own historical experience whereby men redefine what they are about and come to make new claims (for the recognition of their status) upon the societies in which they live. Inherent in this

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1. *Conjectural Beginning of Human History in Kant: On History* (ed. Beck), New York 1957, pp. 58-59.

process is man's detachment from the societies of which he is a member, and which know only group morality, in order to claim that, since true morality is connected with his rational nature, the principles which he obeys ought to be those which he has prescribed for himself.<sup>1</sup>

While natural law doctrine would declare that it was always wrong to ignore obligations to outsiders, the view of ethics, which has just been discussed, would be inclined to maintain that those societies which do not recognise obligations to outsiders have simply not reached that stage where men associate rights and obligations with the concept of humanity. A society which does not possess the concept of an obligation to humanity is not in conflict with a permanently true moral standard. Its experience is that of group morality and its outlook has not developed to appreciating a view of ethics which it is always potentially capable of grasping, namely that men as such, irrespective of group membership, are ends in themselves. Such societies are by virtue of the absence of this perspective (which is clearly a formulation of the internal point of view) incapable of 'international' theory, since it is only through thinking that men as men have rights and obligations that a society can think of a system of obligation that could embrace the whole of mankind. And only at this stage may men feel compelled to think anew the obligations to their separate communities and their obligations to the rest of mankind.

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1. It is certainly Hegel rather than Kant who chooses to write of the whole of human history as a process whereby men who are totally immersed in their cultures and who enact their moralities uncritically come to assert their own individuality and claim that their own individual reason gives them access to moral truths. Hegel, *The Philosophy of History*, (translated by J. Sibree), New York 1956.

The argument against Pufendorf - if the above philosophical perspective were to be accepted - is that he did not possess the insight of say a Gentili who held that the Greek thought the barbarian an enemy by nature, while he was an enemy only through culture on account of the symbolic distinctions established between these two groups.<sup>1</sup> Or, if he did possess that insight he did not employ it in defence of a philosophical history which claimed that history was a process in which man came to regard themselves as beings of worth and sought to change their societies in order to find expression for their conception of their own dignity. Thus, when men make a claim to obey only those principles which emanate from their own rational nature, they seek expression of their pre-eminently human desire, which is to be treated as ends in themselves and to belong to communities which recognise their self-image.

Now this doctrine can be found both in the thought of Kant and Hegel. Hegel, however, despite some remarks on the need to spare innocents undue injury in the conduct of war, did not consider that international relations would have to be re-ordered in order to render its activities compatible with man's moral freedom. Men could find satisfaction of this principle within the sovereign state, or had done so up to that point. However, with the division of humanity into separate states, moral freedom must be regarded as existing rather precariously. For the citizens of any one state may find their lives influenced quite fundamentally by decisions taken elsewhere and without any consideration for them as ends. It was on account of the threat posed by international relations to the moral freedom of citizens within the sovereign state that Rousseau proposed, as the ideal solution, the

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1. See above, pp. 74-75.

complete independence of states. However, there is another option open to international relations theory at this point, which is to argue for the progressive development of an international community based upon principles reflecting man's moral freedom. Now this is the option that Kant takes. Such rational principles ensure that one state does not use other states and their citizens merely as means, so eliminating the moral freedom they may have established within their communities. If moral freedom is to be secure within the state, it is necessary to so structure the environment in which states exist that rational principles can regulate the whole of social and political life. However, it is not sufficient, according to Kant, for men to seek the obedience of rational principles in international relations simply that their moral freedom may be secure within their separate states. Their interest must be in the right of each man to live in a social and political environment where the laws he obeys are the ones he would prescribe for himself. The establishment of such principles within the context of international relations is therefore a duty which each man owes to all the rest. For this reason, Kant could refer to man's progress in terms of the continuing expansion of a moral community in which more men were respected as ends, and could say of the modern world that:

'the social relations between the various Peoples of the world, in narrower or wider circles, have now advanced everywhere so far that a violation of right in one place of the earth, is felt all over it.'<sup>1</sup>

And the completion of this moral progress would consist no less than of the establishment of a moral order at the international level.

Kant's idea that in the course of their history men engage in

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1. *Perpetual Peace*, *op.cit.*, p.216.

more complex social and political relations as their sense of moral freedom intensifies and their morality becomes more inclusive provides one main point of departure for the remaining arguments in this thesis. His theory of history provides us with a more convincing sociology of morals than is to be found in the non-developmental theories of Pufendorf and Vattel. Not only does Kant improve upon them in his account of moral philosophy; he improves upon them through having a more developed historical sociology.<sup>1</sup> If we are to theorise anew about obligations within a humanity divided into separate, sovereign states it is useful to incorporate his insights into society, history and morals. The insight, is, in short, that men have lived in a state of nature never as individuals but as members of societies which exclude each other. The state of nature has existed, and continues to exist, only between men organised into distinct social groups which are not disposed to understand each other as members in turn of a larger moral community. The idea of the state of nature is only useful when applied to the idea of men divided into exclusive social groups each possessing its own internal point of view. Indeed, their condition changes as they come to understand their common ground, or remove the symbolic differences which divide them, and organise their relationships in accordance with a morality held to be common to all. Nevertheless, insofar as men remain divided into distinguishable social groups possessing their own internal points of view, the state of nature continues among

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1. It ought to be added that it is Hegel who presents the more ambitious account of the historical and the cultural. However for present purposes, which are to contrast a developmental with a non-developmental account of human association, Kant is to be preferred since he understood man as having developed the capacity to associate internationally in the course of his history. Hegel, as we noted earlier, resisted this conclusion. See above p. 103.

them although that condition may become more problematic as man's moral sophistication develops. In accordance with this view, Kant held that the difference between the state of nature which existed among families originally and that which existed among nation-states in the modern world was to a large extent a difference in degree of moral complexity:

'The principal difference between the state of nature that exists among individuals or families (in their relationship to one another) and that which exists among nations as such is that the Law of Nations is concerned, not only with the relationship of one state to another, but also with relationships of individuals in one state to individuals in another and of an individual to another whole state.' <sup>1</sup>

The difference between the state of nature formed by exclusive kinship groups, for example, and the state of nature comprising modern states is, of course, a profound one. There is, for example, in the 'modern' state of nature an awareness of the rights and obligations which men have as men, an idea unfamiliar to earlier societies. Nevertheless, despite these differences the condition formed by exclusive, kinship groups and that condition formed by nation-states remains in both cases the state of nature. However, a different condition entirely would result were men to establish a civil society for the whole of mankind, for then the state of nature would cease altogether. In this condition, there would be no social group in possession of an internal point of view, however formulated, placing it in opposition to the interests of other social groups. This final condition would, in Kantian terms, represent the fullest expression of the principle of moral freedom.

The manner in which societies come to dissolve some of their

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1. *Metaphysical Elements of Justice*, p.115.

differences, so enabling them to expand the moral community to include outsiders, or to include themselves in a wider moral community, is one for sociological and anthropological studies. It is outside the scope of this thesis to attempt to offer accounts of this type of social change. What the forthcoming arguments will attempt to do is incorporate what might be described as the 'sociological' perspective on man, namely that the individual is constituted by the society in which he lives. This perspective exists in opposition to the view portrayed (and criticised) by Bradley, namely that:

'... individuals are real by themselves, and it is because of them that the relations are real. They make them, they are real in them, not because of them, and they would be just as real out of them. The whole is the mere sum of the parts, and the parts are as real away from the whole as they are within the whole.' 1

If one adopts the sociological perspective in opposition to the one outlined by Bradley the problem of society is no longer that of explaining how individuals in the state of nature decide to leave it behind in order to join society and the state. It is already assumed by the sociological perspective that man is social by nature. However, another question arises in the place of the problem of the existence of society, and that is how it is that exclusive, or 'closed', societies come to adopt the idea of a more embracing moral community and come to incorporate themselves in more inclusive, more 'open' societies.<sup>2</sup> The non-sociological perspective, which exists to some degree in the writings of Pufendorf and Vattel, would appear to believe that men in the original state of nature had the capacity to form a society as

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1. F.H. Bradley, *Ethical Studies*, Oxford 1962, p.164.

2. A distinction employed by H. Bergson, *The Two Sources of Morality and Religion*, New York, 1956.

large as humanity itself, although man's capacity to satisfy his interests within smaller groups did not require him to exercise his ability to associate on the global scale. But man's capacity to associate globally is not something he has early in his career for it is only possible for him to think in these terms after considerable historical development where he develops the concept of a morality which applies to all men irrespective of their group membership. But if this development is to be analysed in a manner which incorporates the sociological rather than through the sociological itself, what is this analysis to be?

The analysis to be employed is concerned simply with the isolation of some of the main stages in the development of moral freedom between man's division into small, exclusive kinship groups and his unification in the form of a civil society for the whole of mankind. Kant, himself, suggested that a 'minor motive' for attempting a 'philosophical history' would consist in attempting to answer 'the question of what the various nations and governments have contributed to the goal of world citizenship, and what they have done to damage it'.<sup>1</sup> Now the present analysis will attempt nothing as grandiose as that, because it is concerned simply with identifying some central stages in the development of human associations understood in terms of their gradual progression towards a world society based upon the idea of moral freedom. The approach to be considered in the next sections is concerned with a theory of the relations between separate communities within the context of their development from closed to open societies, from limited to extended moralities, from the internal point of view based upon unity of kinship to an external point of view

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1. *Idea for a Universal History*, *op.cit.*, p.191.

based upon moral freedom itself.

The approach to be taken then cannot be regarded as a historical approach. Although some of the earlier stages in the development of society - according to the analysis of this thesis - can claim to have some basis in recorded history, the entire process cannot be held to correspond to anything that has ever happened. Nor is the approach concerned to illustrate a process which must inevitably occur in accordance with the premises of some philosophy of history. The issues involved in making a much greater claim than is being made here cannot be seriously considered within this thesis. Nor can the approach pretend to be involved in indicating some of the social and political stages which might correspond to man's knowledge of the natural law as it (knowledge) unfolds according to its principle of 'graduality'. Nor can the analysis be taken to reflect any belief to the effect that the criterion of right and wrong changes according to historical period in a 'philosophical' rather than in a sociological sense. These are more extravagant claims, too complex to be discussed further at present.

The approach is best regarded as a 'myth', although only in a rather specific sense. It is concerned with a process in which men move from a state of nature comprising 'closed' societies to a condition where men recognise an international morality governing them all and proceed to establish an international government among themselves. Since the approach developed here does not assert that this process is inevitable, and does not proceed to attempt to justify that assertion, this process is best regarded as mythical. On the other hand, the stages which are identified within this process are not randomly

selected, nor is the description of the process as 'progress' merely arbitrary. The development from one stage to another is identified through its tendency to promote the value of moral freedom in man's social and political relations, while the concept of 'progress' in the description of the process as a whole indicates the view that societies can reasonably (rather than arbitrarily) be graded according to their proximity to expressing the idea of moral freedom in their external relations. And the use of the concept of moral freedom as a criterion with which to evaluate societies reflects an agreement with the fundamentals of Kant's moral philosophy as described in a previous chapter. Therefore, while the approach is mythical in one sense, it appears rational in another.

It is as an imaginative exercise that the approach is most usefully regarded. It is designed to enable more serious reflection about our obligations as citizens and as men, as participants in particular political associations and as moral agents with the capacity of obeying universal laws. It is designed to highlight obligations to the rest of mankind. In this respect it is most at odds with the myth of the social contract employed by Pufendorf and Vattel. This myth permitted self-interested men (albeit subject to a higher moral law) to establish limited political associations and defended the idea that the establishment of the separate state was a purely internal, exclusive matter. The approach to be employed here is specifically concerned with undermining this idea, within the context of a myth which understands the state as simply one of the associations men may establish in the course of their development towards a civil society for the whole of mankind.

CHAPTER TENFrom Ethnocentrism to the State

The myth is concerned with four separate stages in the moral development of societies. It will be argued that the later stages are more advanced than preceding stages and that this can be shown through an appeal to Kantian morality. The four fundamental stages are as follows:

In the first place, a state of nature consisting of a variety of ethnocentric societies where members recognise obligations only among insiders. At this stage morality is social since it is held to be applicable only to members of the same society. Conversely, there are no external obligations since there is no concept of a morality which applies to man as such and, by implication, to those who belong to different societies. In this condition, morality exists customarily and is accepted by men as a necessary part of their belonging to their particular societies. Men have not reached a condition where they reflect upon their moralities or believe they can be changed. Men are absorbed within their groups and have not detached themselves from them by making specific individual claims in conflict with the dominant customary morality. There is no sense of the individual conscience or of duties between individuals living in different societies.

In the second condition, men have set themselves at odds with their particular groups by claiming the right to conduct relations with outsiders. As individuals they seek the freedom to enter into their private relations with outsiders - which would never have

existed before. When a number of societies permit their members this freedom of action a new context develops, which may be described as interethnic society. This type of society 'reveals itself by commercial exchange, migration of persons, common beliefs, organisations that cross frontiers and, lastly, ceremonies or competitions open to the members of all these units'.<sup>1</sup> It flourishes in proportion to the freedom of exchange, migration or communication, the strength of common beliefs, the number of non-national organisations, and the solemnity of collective ceremonies'. The freedom which individuals have claimed for themselves leads to their increasingly becoming causally connected. Nevertheless, the state of nature continues to exist among them although in a more elaborate form. For the development of contacts and relationships between the insiders and outsiders of different societies adds another kind of state of nature to the one which already exists. As well as being in a state of nature with other societies by virtue of his membership of one exclusive society, the individual is a member of a state of nature with all other men as a private individual. Individuals are free to enter into relations with outsiders, but these relationships are not governed by a system of rules which ensures that they are conducted fairly. In this sphere of free action, men are not governed by the customary rules of the societies to which they traditionally belong. They are thrown back upon their own resources and since the new state of nature is not a secure one the fact that fundamental innovations have to be made develops their capacity to think in terms of a reflective morality, a morality which men establish for themselves through their reason.

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1. R. Aron, *Peace and War Among Nations*, London 1966, p.105, where Aron discusses 'transitional society'.

This will take us to a third condition where men attempt to create legal and political institutions in order to take control of their new social reality. In this condition men wish to move beyond their causal connection to their moral connection, for they seek to acquire the recognition of the rights they have as individuals through the establishment of legal and political authority. This section will be concerned with a point made by many political theorists, namely that men reach a situation where tribal authority or private vengeance are inadequate mechanisms of social control and, consequently, these give way to a new kind of authority, political authority which is in the hands of a specific agency, namely the state. According to the myth the break with ethnocentrism and the development of new types of relationship leads to the point where traditional methods of social control cannot mediate between group interests. Consequently, new types of disagreement (those involving a private individual in his relations with individual outsiders) cannot be 'exposed to private vengeance or to the mere displeasure of his community; his offence is investigated and he is liable to fines, imprisonments, whippings, or even death at the hands of a public executioner'.<sup>1</sup> The move from ethnocentric society to transnational society, or the development of individualism from an internal point of view based upon ethnocentrism, leads to the development of the state - according to the myth being developed here.

The formation of the state occurs within the fourth stage of the myth because men have come to make new types of claim upon one another, a condition which has arisen with the idea of the individual having the right to pursue his ends as an independent person. The

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1. J.P. Plamenatz, *Man and Society*, Vol.2, London 1969, p.352. For this account of the origins of the state, see Plamenatz, on Engels, pp. 351-354.

state is concerned with maintaining an order among these individuals within a certain political space. Now within this condition the state appears as an instrument, a means whereby individuals establish an order within which they are free to pursue their interests. It is similar then to Pufendorf's concept of the state and comes into existence as men understand themselves as possessing rights to advance their interests, albeit within a legal and political framework which is concerned with the preservation of justice. Individuals regard the state as an entity which has come to exist in response to their new social condition; they regard it as their property, as a reflection of their particular development, and as the highest association with which they identify. Underlying the state is a sense of territoriality, a sense of place and a feeling of belonging to a community which reflects the social bond among its members.

Now, it will be assumed that at this stage, men in the state have few relations with outsiders. I shall assume that they have some relations with groups who appear to them to be at an 'earlier' stage of human development and that these relationships are conducted fairly. Therefore, although members of the state have a sense of identification with the state they do not exclude outsiders from fair treatment. Let us assume, however, that with the passage of time, the members of this state come into contact with other advanced societies which possess legal and political apparatus not unlike that with which they are familiar. Their relationships with these states, as opposed to their relationships with earlier societies, compel the state to reconsider what it is about. While the state recognises obligations to earlier societies it does not consider these obligations as requiring the establishment of fundamental social and

political co-operation since their cultures are so dissimilar. But with the discovery of similar societies the possibility of more complex and more developed external relations develops. There is, in the first place, the necessity for the elaboration of particular rules for regulating the relations between separate states. There is an immediate need for agreeing upon the rules of diplomacy and for articulating principles for the harmonisation of conflicting interests. The development of such rules would represent the gradual extension of the boundaries of moral community and states might regard themselves as members of a kind of society.

However, there is a sense in which the relations the state has with other states will develop its moral capacities in new directions. For in the elaboration of rules which govern all the states, communities, in a manner of speaking, are developing principles which may be held to bind all men simply as men. They are establishing certain universal principles of justice through agreeing that there are various fundamental rules which ought to be observed in the relations between all states. The main feature of this fourth stage in the myth is the development of a new type of moral consciousness which maintains that there are rational principles of morality which oblige all men by virtue of their possession of rational nature. Men were to some extent aware of this, albeit implicitly, with the establishment of the state. But at that stage their attention was focussed rather more intensely upon their individual capacities, and in particular upon having emancipated themselves from the customary morality of their early societies. They were concerned then with having secured the freedom to define and pursue their own interests and, by virtue of the fact that others claimed a similar right, with

the establishment of a state for the maintenance of order among themselves. At that stage, it was allowed rather implicitly that other men had the equal right to pursue their interests, but given their previous history it will be assumed they were concerned more with the value of the independent individual first and foremost, and only then with the moral equality which he shared with others. In the fourth condition, men turn their attention more in the direction of their moral nature and its capacity for establishing rational principles which govern all men. It will be assumed then that they seek satisfaction through the transformation of their social and political environment so that it more perfectly embodies the principles which govern all men *qua* men.

At this stage, men come to radically redefine their attitudes towards their state. They are now capable of imagining a condition where states may collaborate in order to establish a civil society among themselves. For this reason men are not satisfied with the belief that the state is the highest form of association since they believe that the state is incapable of satisfying their demands for a form of association which expresses their belief that men share fundamental moral principles. They no longer consider the state as the most perfect association maintaining the harmony of interests between similarly constituted individuals who share a common territory. Rather, they understand it as an association which maintains justice first and foremost among men, who, for a variety of historical reasons, happen to have developed together and to have developed close sympathies. In the third condition, the essential nature of the state was its concern with the maintenance of order, and with justice as a means to that order, within a definable territorial area. Now,

in the fourth condition, the state is understood as first and foremost an instrument of justice, and as limited within a particular territory through the accident of history. The objective men set for themselves at this stage is the establishment of an international association which overcomes the fact that through historical accident the observance of just principles has been confined to separate political associations occupying particular territorial areas. In a previous condition the state had appeared to be the highest form of association; now it appears as one form of association within the development of men towards a situation where they can bring their universal ethic to bear upon their entire social and political condition.

In this fourth condition, men are concerned with two sets of objective. In the first place, they are concerned with grounding the relations between separate states on rational, moral principles. But this objective is not self-sufficient, as men are concerned to 'cultivate a friendly society' with outsiders with a view to the eventual establishment of international forms of association. For this reason, members of separate states do not regard their condition as climactic, but merely as dominant, and in seeking to discover rules for regulating the relations between states, they are not establishing some 'system of states' which maximises their interests, but rather preparing the way for the transformation of states considered as separate, sovereign associations.

There are then two essential transitions within the moral development of societies as understood through the myth. In the first place, there is the move from ethnocentrism to individualism; and, in the second place, there is the move from considering the

state as an instrument for the administration of justice for a particular population within a specific territorial area to understanding it as a particular mode of association within a larger historical context. Let us now consider these stages and their transitional steps in some greater detail.

## II

Let us begin with a description of the original state of nature composed of distinctive and mutually exclusive cultures. In this original state of nature there is no such concept as an obligation to an outsider and no such event as a transaction with an outsider. What is more, as far as these cultures are concerned the absence of obligation and the absence of transaction are connected. For since this condition is one of entirely closed societies, which have no idea of a morality between groups, it is impossible for groups or their members to enter into relations one with the other. There is no concept of a claim separable from sharing the status of a member within a particular group, the group of one's origin. To be good, to receive the commendation of the group, it is necessary to perform one's allotted functions well. And since there is no concept of a morality between groups it is necessarily the case that a member will only receive approval by enacting customary rules. In the absence of an intergroup morality, members are at liberty to plunder and kill the members of other societies. The condition is therefore a state of war where, apart from the security afforded by society, there is 'no mine and thine'.

It is certain that within any society in this condition there will be numerous prohibitions and sanctions designed to prevent

contact with outsiders as contact would involve infringing one of the fundamental rules of the group. In addition, members of the group may derive considerable status from inflicting harm on an outsider. There is no possibility of entering into a relationship with an outsider and indeed positive incentives to be gained by reinforcing the fundamental differences between insiders and outsiders. So although the condition is a state of war marked by vengeance and feud - not unlike the one imagined for individuals by Hobbes - it is not one which men would wish to abolish through the establishment of 'a Common Power to keep them all in awe'.<sup>1</sup> Men are social beings with an interest in maintaining their membership and status within the group before all else. The state of war is full of fears, but no fear is greater than the loss of one's place within the society of one's birth. Mumford describes this condition as one marked by:

"the fear of the nontraditional, the unaccustomed, the strange, the foreign: hence, too, the love of the accepted, the conventional, the often repeated, the proved: the veneration for ancestral ways, 'This is done', 'That is not done' ..."<sup>2</sup>

All of this is reinforced by the fact that no member of society can lose more than his status in society, for 'unless one belongs one does not exist'.<sup>3</sup>

Clearly, this way of life must have passed away in many societies although it is no part of the present concern to speculate about the sociological or psychological mechanisms which may have initiated its downfall. It is no part of the present concern to

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1. Hobbes, *Leviathan*, *op.cit.*, p.185.

2. L. Mumford, *op.cit.*, p.28.

3. *ibid.*, p.28.

argue that this condition was, as a matter of sociological fact, one that existed 'for the greater part of human history and surely for all prehistory'.<sup>1</sup> When it is maintained that this condition is the lowest in the sequence discussed in the myth, this is not on account of the fact that it is historically prior to those which it precedes. It is considered the lowest because it is the point farthest from the condition which will conclude the sequence, namely, a universal kingdom of ends. Accordingly, the first stage in the sequence is defined not on account of its sociological priority in time, but on account of being the most elementary of the sequence as defined only from that point which will conclude the sequence itself.

The first condition is regarded as inferior within the process only partly because there is within it no awareness of moral standards which can regulate the activities of separate societies. It is rather the implications of that lack of awareness that is of interest in the first instance. For example, within this condition the members of each of the societies are unaware of the possibility of social rules and moral principles which might not only regulate the relationships of their separate societies, but in addition allow the incorporation of these societies within a more inclusive social system. This condition is located at the beginning of the process because men within it have not realised that it is possible to constitute societies, or indeed *ad hoc* relationships, on quite different principles from those traditionally accepted. Customary beliefs insist that there can be no relationships with members of other societies as relationships are conducted exclusively among members of the same culture. While men

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1. *ibid.*, p.24. Indeed it has been argued that 'Great, sprawling, polyethnic empires have been perhaps the historical norm'.  
A.D. Smith, *Theories of Nationalism*, London 1971, p.65.

remain in this condition they are unaware of one of their fundamental potentialities which is to create a new context where there are relationships with outsiders and rules established by men for the regulation of this form of conduct. This condition is the lowest one in the series not on account of its immorality from the perspective of some more advanced moral understanding, which would be a trivial observation, but because men remain unaware of their freedom to create new relationships and establish new ends for themselves. In this sense, they lack one of the important freedoms which consists in being able to formulate new goals which cannot be satisfied within existing culture and which lead men on to transform their social condition.

Furthermore, for men to become part of a universal kingdom of ends it is necessary for them to become moral agents, that is to reflect as individuals responsible for their conduct upon the courses of action open to them. Now, in the first condition men do not regard their morality as something to reflect upon or to work over. They enact it uncritically in accordance with their status as members of exclusive societies. It is necessary then for the purposes of the myth that men should challenge traditional authority by establishing new ends which threaten their existing social order.

Let us now consider one method by which men gradually come to be dissatisfied with their condition. Given their condition it would be unreasonable to proceed on the assumption that men could suddenly formulate the idea of an obligation to an outsider. Rather, let us work on the assumption that such an idea develops over time in the wake of some contact between insiders and outsiders which extends the range of sympathy.

It is conceivable that in the face of some economic or social necessity some of the societies in the first condition are faced with very little alternative but to relax their ethnocentrism for the purposes of survival. Previous standards are relaxed in order to permit the development of insider-outsider relationships. At this stage, it becomes possible for the members of one group to make contact with the members of others though not on their private initiative and for their own individual benefit. The ethnocentric barrier is weakened simply to allow the development of relations between members and non-members for the sake of the benefit of the group as a whole, not to enhance the welfare of a member as a person with some measure of independence from the group. At this stage the member is not regarded as an individual with the right to conduct relations with outsiders as he will for his own benefit, but as an agent for the group specifically entrusted with engaging in relationships with outsiders over matters where the group believes it can derive some interest. The group will therefore be careful to exercise new forms of social control in order to manage its new context. For, on the one hand, it is necessary for it to enter into the spirit of new rules, perhaps involving the keeping of promises, while, on the other hand, it must attempt to ensure that its members do not become over-attached to the members of other societies in the course of their dealings with them.

The problem of the possible extension of sympathy is one of the difficulties societies would face in this context. However, such co-operation as does exist can be handled without there being any threat posed to the separate identity of the group, by specifying the limits of co-operation to members of the group. Co-operation is undertaken for the specific purpose of improving the circumstances of the

group. Relationships with outsiders do not exist for altruistic reasons, and the ends of outsiders are advanced incidentally as it is only through some exchange with them that the group can hope to improve its own circumstances. The group may experience some weakening of its ethnocentrism, but not of its egocentricity. Rules for regulating relationships with outsiders are of purely instrumental value, and they will be ignored when the group believes its circumstances no longer require relations with others. Nevertheless, while such relations occur, any obligations incurred in its relations with outsiders will be considered inferior to its internal system of obligation, for the status of member is a necessary pre-requisite for counting morally. Therefore, should any member feel a tension between his customary obligations and sympathy towards outsiders, social control will immediately be exercised in order to impress the tie of membership upon the one involved.

Although the new condition has not permitted the member the right of engaging in external relations with a mind to promoting his independent interests, it has given him an opportunity for developing relations with outsiders and employing his reason in order to create a new kind of rule for relations with those who are not members. He has been given an opportunity, albeit incidental to his main purpose, to discover something about outsiders through his own experience rather than through the collective interpretation of the whole group. And, in addition, he has been given some opportunity to have some moral experience of outsiders through, for example, keeping the promises he makes to them. He may come to feel a certain sympathy for outsiders, and come to think that relations of trust are possible with them. It is possible that through the new type of experience made available to

him he may come to feel that the customary way of life cannot contain within it all the possibilities he should like to have open to him. For this reason some members may make a claim against the group for recognition of their liberty to continue conducting relations within outsiders. They may make a claim for a freedom, which had never been recognised before, the freedom to conduct relations on their own individual account.

In this process the member is simply claiming for himself what the group had already allowed to itself, namely the liberty of conducting relations with outsiders for the purpose of advancing its interests. Members are now prepared to reconsider their status as members who are excluded from all contact with outsiders. They are prepared to challenge the conventional rules of their societies in order to attain recognition for themselves as individuals as well as members. The making of this claim is necessary for them if they wish to secure the liberty of entering relationships with outsiders on their own behalf, and it represents their gradual move from a customary and traditional life to one marked by a greater sense of reflectiveness and individuality. The member's previous experience has led to the conviction that he cannot be satisfied by traditional culture and that he must have the liberty of setting ends for himself, ends which involve him in more complex relationships and obligations with outsiders. By developing himself as an individual, he is separating himself from his group, at least to the extent of asserting that the uncritical performance of customary morality, through which he formerly derived his standing and security, is no longer sufficient for him.<sup>1</sup>

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1. This element in the myth is derived from Hegel. Consider, for example, his remark: 'Of the Greeks in the first and genuine form of their freedom, we may assert, that they had no conscience; [over]

Let us assume then that the member is capable of receiving recognition for his desire for a private sphere where he is allowed to cultivate relationships with outsiders without the harrassment of fellow-members. If this claim is conceded, two consequences immediately follow. In the first place, the member can only regard his individual sphere as having full recognition from his society if he is able to create obligations for himself through his relations with outsiders, and if his society allows that he is entitled to do so. Indeed, from the individual's point of view, his capacity to enter into obligations with outsiders and be able to honour them without pressure from his peers to break the obligation for the social good, represents a seal upon his individuality. If society is to recognise this sphere of individual liberty with outsiders, it is necessary that it make various readjustments to its social morality. For, previously, members would not have been permitted this liberty and any attempt to enter relations with outsiders would have met with severe social sanction. In the second place the present context makes it necessary for society to reflect upon its morality in the attempt to draw a line between the area in which the individual is free and the area where he is obliged as a member of society. By drawing this line, which will necessarily take place gradually over time through situations where the individual comes into conflict with society or finds himself pulled between his

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the habit of living for their country without further (analysis or) reflection, was the principle dominant among them', but that there developed 'a subjective independent freedom, in which the individual finds himself in a position to bring everything to the test of his own conscience, even in defiance of the existing constitution'. *The Philosophy of History*, *op.cit.*, p.253. And see also his remark that 'the individual is thus sent forth into the world by his own spirit to seek his happiness', *The Phenomenology of Mind*, London 1971, p.380.

obligations to insiders and obligations to outsiders, society attempts to reach a condition of harmony, a condition as harmonious as the first but now involving an area of liberty for its members. These two consequences must, in their turn, be supposed capable of developing further man's powers of moral reflection. For the present condition is an unprecedented one which will require the development of man's capacity to create a reflective morality to match the problems and possibilities of the new condition.

Now the development that has taken place and the need for the creation of a reflective approach to morality stem from the fact that the individual is gradually advancing the idea of membership of two societies, the one of his birth, the other of his own creation. He is beginning to promote the idea of dual membership as he is not only a member of his natural society but also associated with an emerging community which embraces insiders and outsiders alike. This situation arises in the following way. In the first place, the individual seeks the liberty of making transactions with outsiders, of enlarging the sphere of his relations and increasing his possibilities for new experience. He will want to enter into commercial relationships, to create opportunities for friendship and conjugal relationships and indeed to enlarge his experience through familiarity with the culture of others. Now let us consider what is involved in society's willingness to allow the individual to conduct these relations and honour related obligations. Society refrains from making demands on the individual to deal unfairly with outsiders for the sake of the greater good of the individual's natural society. It refrains then from placing pressure upon the individual to act as if he were an agent of the group - as indeed he had once been. Society recognises that for the purpose of conducting specified

relations the individual is at liberty to treat outsiders as he would treat insiders in relevantly similar circumstances. There is a recognition of the fact that within a socially recognised realm the individual can apply fair standards both in his internal and external relationships. He is not called upon to apply one standard for relationships within the group and a quite different and less fair standard for relationships outside the group. One standard of morality will suffice for both sets of transaction. What has been accomplished so far is a move to that situation where the individual is at liberty to treat insiders and outsiders alike for particular purposes. He has been granted then an entitlement to act in correspondence with universalisable principles which regard differences of membership status as irrelevant to the question of right conduct within specified areas. And by granting the individual this entitlement, society acknowledges the fact that the individual has a status within two societies - as a member within one, as a private individual with the capacity to enact a rational morality within another. And in this sense, membership of two moral communities is coming into existence.

When he comes to consider what has hitherto been achieved, the individual will notice the decline of ethnocentrism and the rise of the entitlement of regarding himself as a being with personal interests which he may seek to maximise through relations with outsiders. He has also been granted the right of establishing obligations for himself in his external relations without being subjected to social pressure to dishonour them. The process would appear to him as one of progressive development of his sense of being an individual through a gradual emancipation from the control of customary morality. The individual is no longer absorbed within his natural society, a transformation

displayed in his capacity to set his own ends and to pursue their satisfaction through his private, external relations. The process appears first and foremost as the progressive development of individual freedom marked by the existence of an individual sphere which stands beyond the control of and is affirmed by his natural society.

Now in securing the liberty to conduct his private, external relations the individual has secured a right of individuality against the group, although at this stage for himself only. He has successfully opposed the customary principle that relations can be conducted only among insiders. His right of individuality consists in the fact that he has won recognition for a principle that a person's membership of a different culture cannot be regarded as sufficient reason for excluding the possibility of social relations with him. Now what the individual has achieved is recognition as an end in himself, that simply as an individual he is entitled to set and pursue his ends without reference to the customary morality of the group. At the same time, he has recognised the right of society to attempt to establish principles which harmonise his obligations as member with his liberties as an individual. But, as we have seen, beyond this point society does not exercise jurisdiction over the activities of the individual. He is his own master in those private, external relations of which society approves. There are, however, a number of reasons why this individual sphere which stands beyond the control of his natural society cannot remain so for long.

In the condition currently enjoyed the individual has won a new status within his society which mirrors this by altering some of its customary moral principles and by introducing others. It is a new social condition where society makes a commitment to individuals as ends.

However, at this point society recognises only members as individuals and makes its commitment to them alone. No commitment of a similar kind has been proposed for outsiders with whom insiders have relations. The individual has been granted the right to conduct his relations and introduce obligations for himself into these relations. But he has similarly been allowed the liberty of dishonouring his obligations since society at this stage has not undertaken to exercise any control over these areas of his life. While society remains disinterested its individuals may honour their obligations to outsiders, but they are equally entitled to ignore them if they choose to place their separate interests before the ends of others.

For a variety of reasons this condition could not be long-lasting and society would become more deeply involved in making commitments directly to outsiders. In the first place, individuals, who have seen their ability to discharge obligations to outsiders as a seal upon their independence from the group, may find that their infringement brings the disapproval of other members whether or not these are also involved in private, external relations. To the extent that some members may place rather greater emphasis upon right conduct in relations with outsiders and may have a greater sympathy towards outsiders, the honouring of obligations may come to be understood as a duty by those members of the group who are actively involved in rethinking their morality. It is conceivable then that certain members of the group may be pressing for a situation where the group as a whole makes a commitment to outsiders in the form of being prepared to punish insiders who fail to discharge their obligations. In this condition one of the tensions within society will exist between those who believe individuals should be compelled to discharge their

obligations to outsiders and those individuals who wish to preserve their freedom from this extension of social control.

Both groups, however, may wish the extension of a principle which has already been conceded although hitherto to insiders alone - the principle of the right of individuality. Individuals may claim that if insiders have the right to promote their ends by conducting relations outside the group, then outsiders ought to be able to enter other societies too. What is granted to insiders ought to be granted to outsiders also, since society has already agreed that the individual has the liberty of engaging in new relations with the members of other groups. The right of individuality, so it is argued, ought to be acknowledged not only in insiders but also in outsiders. There can be no justification for treating insiders and outsiders differently with respect to the liberty of formulating individual ends which can be promoted through contact with individuals from other societies. When one society allows that outsiders have the liberty of pursuing their individual ends through co-operation with its own members, an important step has been taken in the direction of the development of an interethnic society.

The reasons for change in the direction of an interethnic society may be manifold. Some individuals will regard the freer communication between societies as worthwhile since it enlarges human experience and encourages diversity to develop. Others may see it more specifically as encouraging the development of man's moral powers and promoting the development of a wider moral community. Others still may regard the freer movement of persons simply in terms of the promotion of their own individual interests. However interethnic

society is interpreted, separate societies will be required to take a greater interest in the ways in which insiders treat outsiders. For, once interethnic society has reached a certain level of development, each separate society will be compelled to reconsider that personal sphere which has until now stood beyond the control of natural society.

What, then, are the mechanisms which press separate societies to become concerned with the commitment to non-members within their midst? In the first place, there are those who, concerned with the greatest development of moral community, wish society to make an irrevocable commitment to assist outsiders in the promotion of their individual ends. They are concerned with the extension of sympathy and with the development of man's capacity to become benevolent. These men simply extend the view that a higher moral experience not only requires the demise of an uncritical enactment of earlier social morality, but that it also requires interaction with non-members whereby both insiders and outsiders may develop their moral capacities through interethnic society.

However, even those who are concerned that society should not make such a moral commitment to outsiders (since they wish merely that they be able to promote their own interests by having access to outsiders) are creating a situation whereby society's commitment to the welfare of outsiders is inevitable. Let us consider how this commitment might develop with regard to the individual's liberty to marry an outsider who is then permitted to reside within the group. Society develops to that point where it allows marriage outside the group and so creates certain rights for its individual members, but it does

not at this stage acknowledge that the outsider has any rights as a separate person. In this context there would be no sanctions applied to an insider who maltreated an outsider married to him. Now it may be argued by the more reflective members of the group that while this situation remains society has not committed itself seriously to the right of individuality in outsiders, and that this is a legacy from those times in which recognition of insiders and outsiders as equals was inconceivable. Where society is prepared to accept that outsiders have ends which they may promote within its own boundaries, it will not be sufficient to extend merely liberty of access to the outsider. If the outsider's ends are to be treated seriously it will be necessary to ensure that an insider cannot use an outsider merely as a means to his own purposes with impunity. It will be necessary to extend guarantees to the outsider as a person in his/her own right. So it will be argued by those concerned to promote a more reflective morality.

There is another reason why society may feel compelled to introduce the idea of guarantees for outsiders. An outsider remains a member of another society which may not be prepared to stand idly by while one of its members is abused elsewhere. In the original state of nature an injury to a member would have involved the whole group in an act of revenge directed indiscriminately against the members of another society since the whole society would be held collectively responsible for the act. However, with the level of social change which has taken place society is no longer prepared to uncritically spring to the defence of an insider. From its point of view the member's claim to act as an individual outside the group cannot be separated from his duty to accept responsibility for the consequences of

his actions. While his society is prepared to protect him, it cannot offer assistance simply on account of his claim to be a member - which would have sufficed before. Prior to offering its assistance fellow-members will wish to know more about the way in which the individual has conducted himself. It will want to know if he deserves their assistance since he cannot claim it on account of his status alone.

Social development has brought about a new and more complex state of nature. In the original one societies were in such a condition by virtue of the exclusive and hostile nature of their moralities. Although this exclusiveness has been relaxed the state of nature has not yet ceased. In the first place, those individuals who are involved in insider-outsider relationships form a state of nature of their own. A person who lives within another society which does not protect him is as insecure as he was before. Until he receives guarantees from that society as an independent person his condition is not a safe one. Similarly, if he is abused within another society he can no longer be confident of the automatic protection of his natural society. These are problems necessarily related to the individualism he has introduced into his social condition. On the other hand, his natural society faces new problems with the development of individualism. For while it wishes to assist him since it considers him a member as before, it now requires of him some justification that it has a responsibility to do so. And if a society should protect its member without question it can be sure to meet with the organised resistance of his host society. On account of the uncertainties of this modified state of nature individuals and societies alike are concerned to establish

new methods of social control for the purposes of maintaining order and promoting justice. It is through granting guarantees to outsiders as independent persons that these uncertainties can be overcome while these ends may be promoted.

With regard to this aspect of social change, where society gives a guarantee to outsiders, society takes a major step forward in developing a wider moral community. For in this condition it is prepared to enter into an investigation of the behaviour of one of its members with the explicit intention of ruling against him should he be found to have committed a wrong. The introduction of the idea of a guarantee to an outsider, which is the recognition of an obligation towards him, carries the idea of upholding his rights whenever these are infringed regardless of the status of the person who infringes them. And this is a development of fundamental importance as it involves upholding a principle of justice in a relationship between an insider and an outsider. When a society brings an impartial standard to bear upon insiders and outsiders alike, when it is less concerned with the membership of a possible wrong-doer than with whether or not he has committed a wrong, it advances considerably towards a more inclusive, moral community. What has been established is a principle to the effect that for certain types of relationships the distinction between insider and outsider effectively ceases to exist as it is morally irrelevant to the judgment to be made. The measure of the advance is best indicated by stating that within the present condition those who investigate any dispute between insiders and outsiders are concerned simply with the character of actions rather than with the membership of the persons who committed them. In the original state of nature nothing else mattered.

The development of individualism, in its more specific meaning employed here, accounts for the emergence of a gradual 'rationalisation' of life. Formerly, individuals had acquired their status through securing a sphere remote from normal social control. However, the exercise of individual liberties brings uncertainties for individuals and societies alike, and the need is for a method of supervision which removes instability without eliminating the individual's domain. In the first place, it is likely that rather *ad hoc* and optional mechanisms might be employed for the purposes of resolving disputes between insiders and outsiders. However, they need only to assist marginally in the search for greater stability to have the effect of increasing the level of interethnic relations, as the establishment of some minimal institutional device will provide a more secure context within which interethnic activities can develop. Nevertheless, at a certain level of activity the *ad hoc* and optional recourse to some form of adjudication will appear inadequate, and the need for more powerful agencies will develop. The emergence of individualism and the gradual rationalisation of life develop in an elementary form some of the basic features of the state.

Now such institutions will necessarily have an impact upon the circumstances and conditions which gave rise to them. Continual use of agencies for adjudication will have the effect of stimulating reflective morality even further and in turn establishing reasoned customs which contain society's judgments about right conduct. Adjudicators, rather like the Roman praetor, will have to establish new rules for the novel event, a process which may be facilitated by seeking to formulate principles which have their roots in several

different cultures.<sup>1</sup> Such a technique has the effect of integrating the members of different societies into a more inclusive community, one which is concerned with their ends and involved in the creation of reasoned principles which will protect them. What is developed through the operation of these agencies for adjudication are more universalisable principles, which apply to situations defined in terms of their salient features which include the person's intentions, the probable consequences of action upon others and exclude such arbitrary features as the person's natural society. What is developing then are universalisable principles deemed to apply to like persons in like situations and which take into account the ends of persons irrespective of their membership. Over greater areas of life insiders and outsiders come to be respected as equals.

With the development of interethnic society individuals see themselves as belonging to two societies, the one being natural the other being created through the development of individualism. And they are also subject to two different sets of rules, the one being the customary rules of their natural societies and the other being the rules men have established for themselves in response to the uncertainties of interethnic society. Now insofar as established rules may uphold the rights of an outsider against the insider, outsiders can identify with interethnic society and its agencies since these are prepared to do justice to their ends. Since the rational standards of interethnic society are in principle capable of assisting him in the pursuit of his ends, an outsider can understand himself as participating in the development of a society where he feels a sense

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1. On the Roman praetor, the praetor peregrinus, see J.B.Scott, *Law, the State and the International Community*, Columbia 1939, pp. 108-109.

of his worth. He may consider himself not merely as a free individual but as a member of such a society, and he may eventually come to consent to the establishment of a more inclusive community with its independent institutions and its authority to control him. With the development of confidence in the institutions of interethnic society and with a desire to preserve his individualism, both insiders and outsiders may be prepared to incorporate their natural societies within a more inclusive society, namely the state. And when this condition arises men give their loyalty to a set of legal and political institutions which are concerned with them as individuals, while they preserve their attachment to their natural societies which are contained within the more inclusive association.

In a society in the original state of nature social rules were traditional and customary. Society was homogeneous and cohesive and as change was barely imperceptible there was no need for institutions to change rules in order to adapt society to changing circumstances. In a small, face to face society social control could operate through group pressure and opinion, therefore specialised institutions were required neither for adjudicatory nor punitive purposes.

The emergence of an interethnic society has totally transformed man's condition. Men from different communities could not apply their indigenous rules to these new relationships but had to set their reason to work for the development of new guidelines. They had to discover some common ground which would appear fair to all participants and so in the course of time a kind of *ius gentium* evolved. The complexity of this condition leads traditional methods of social control to lose their efficacy. Similarly, earlier methods of slowly

changing customs to meet new situations cannot suffice within the new condition. In addition, insiders and outsiders wish the development of independent institutions to consider their circumstances as individuals. They wish to see the limitation of the jurisdiction of traditional modes of pressure and their replacement with established institutions which reflect the fact that the new condition in which they find themselves requires expression in institutions of their own creation. They measure their individuality in terms of the extent to which it finds expression in newly created interethnic institutions.

What is being witnessed in the course of this social development is the step from the 'pre-legal to the legal world'.<sup>1</sup> Men in the condition in which they now find themselves see the 'advantages of further centralisation of social pressure' and proceed to establish the required institutions.<sup>2</sup> Now it is important to draw out the processes which lead men to take this step. Three factors have been indicated as forces behind the move from the pre-legal to the legal world - uncertainty, the static nature of rules and inefficiency. At a certain stage of social development where society's structures or rules have become fairly complex, an individual may be uncertain about the rule which applies to him in any situation - perhaps with regard to conflict with another. To remove the uncertainty it would be useful to have a tribunal which could interpret the rules and produce some order among them. Secondly, a complex society cannot adapt sufficiently quickly to new circumstances unless there are agencies which have been authorised to alter the rules in accordance with new needs.

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1. On this process see H.L.A. Hart, *The Concept of Law*, Oxford 1961, pp. 86-96. The quotation appears on p.91.

2. *ibid.*, p.95.

Thirdly, and lastly, social complexity cannot tolerate the continuing use of 'diffused social power' for the purposes of deciding what rules have been broken and what form of punishment ought to be applied.<sup>1</sup> The complexity of social life produces the need for 'rationalisation'.

Now the development of an interethnic society creates the necessity for the move from the pre-legal to the legal condition. It is necessary that tribunals exist to decide whether or not a rule has been broken in the relations between an insider and an outsider (a distinction which is becoming increasingly irrelevant as the process continues), to decide the rules that apply to or create new rules for the occasion, and lastly to decide the right punishment for any offender. What has to be established alongside the rules governing everyday behaviour is a new set of rules which authorise particular persons to apply and enforce the former, and additionally to change them when necessary. According to Hart's terminology, the existing primary rules already found in interethnic society need to be supplemented with a set of secondary rules, and these bring into existence the apparatus of the state.<sup>2</sup> Now with the establishment of this form of association among themselves, men are in a position to improve the condition that has resulted from their claim to conduct private, external relations. The shortcomings of this more inclusive society make it

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1. *ibid.*, p.94.

2. Secondary rules 'may all be said to be on a different level from the primary rules, for they are all about such rules; in the sense that while primary rules are concerned with the actions that individuals must or must not do, these secondary rules are all concerned with the primary rules themselves. They specify the ways in which the primary rules may be conclusively ascertained, introduced, eliminated, varied, and the fact of their violation conclusively determined.' *ibid.*, p.92.

mandatory that men establish the state. And through its establishment they not only assist the development of stability and order but enable a coherent account to develop of the obligations a person has as a member of his natural society and as an individual member of that broader association, the state, which now incorporates it. Finally, the establishment of the state provides a focal point around which civic virtues can develop in importance.

Let us conclude this section of the myth by reviewing some of the more important aspects of the development that has taken place. The myth began with a discussion of societies each of which was immersed within its own customs. Each society had an internal point of view based upon ethnocentrism and the ethical reference for the member of such a society was custom and tradition. The myth then proceeded to discuss the implications of the individual's claim to have found a reference in his own thought and experience and to begin engaging in a variety of transactions with the members of other societies. In the course of these transactions a new condition of uncertainty resulted and men began to establish rules through the exercise of their rational powers. Two important consequences follow. First of all, societies take an important step forward when they are prepared to uphold a principle of justice for the benefit of an outsider, as previously moral claims had only been met between members of the same exclusive society. In the second place, a considerable advance takes place when it is believed that the highest level of moral experience can no longer be found in the uncritical enactment of customary obligations but only through the performance of the principles of a reflective morality existing between independent individuals. These two consequences make possible the incorporation of men's natural societies

within the state. Their capacity to move beyond their earlier internal points of view and take an external point of view where they are capable of considering the ends of insiders and outsiders leads them to sink their cultural differences in the formation of the state. According to the stage they have reached, men believe themselves to have established a higher association, one which expresses the independence of the individual from his former cultural context and harmonises his ends with the ends of others through the establishment of a legal and political system.

CHAPTER ELEVENFrom the Separate State to  
International Society

The process so far has been one in which men have moved from being members of ethnocentric societies to being citizens of that state. In an account of the predominant type of self-consciousness within the state, first priority must be given to the fact that men are aware of having liberated themselves from previous cultural restraints in order to pursue their individual ends. Men understand themselves as possessors of private rights which it is the duty of the state to safeguard. The state, legal and moral rules are considered to be means for the protection of individuals. Men do not think of themselves as being under a duty to belong to the state, for they understand it as a mechanism which removes a number of the uncertainties of their previous condition. It is understood as the most adequate solution to the predicament of those whose interests have become interdependent. Implicit in this, of course, is the idea that there would be no need to form a state with men with whom one had no interdependence of interest. However, this thought need not find any articulation at this stage since the state which does exist includes all known men.

Although the above type of self-consciousness is predominant it does not exist alone. Some men, more attached to the value of morality in itself, attempt to impress upon their fellows some of the virtues to be developed in good men. These thinkers, who are the

custodians of a higher type of reflective morality, are concerned with reminding men that in addition to their private rights there are civic virtues and a common good for them to consider. For these thinkers in addition to the rules which harmonise the interests of individuals, and which underpin their present condition, there exist values which ought to be promoted by men simply as men. For them existing political society is not the consummation of man's moral development since it is capable of considerable improvement. And this would take the form of developing relationships and institutions which more adequately reflected their concept of man as a moral being.

Let us imagine that in the course of things the state eventually comes into contact with other societies, an event which reveals to it that it is separate and that it has to consider what its relationship is to be with these newly discovered societies. Let us further assume that by the state's own criteria the newly discovered societies stand at a lower stage of social development. Now the problem of right conduct with these societies intensifies one of the main sources of division within the state. On the one hand, some citizens will be prepared to pursue their private interests within these societies, and will not be too concerned about the welfare of the people they come across. For these men the newly discovered societies are considered simple and primitive. They do not consider themselves to be bound by far-reaching obligations in their relations with them. On the other hand, those men who have been concerned to articulate the principles which should be observed by the good man oppose the views of those who feel unbound in their relations with outsiders. They see them as having 'formed a plan of geographical morality, by which the duties of men, in public and in private

situations, are not to be governed by their relation to the great Governor of the Universe, or by their relations to mankind, but by climates, degrees of longitude, parallels, not of life, but of latitudes'.<sup>1</sup> They see in their actions the restatement of the internal point of view, albeit in a different formulation from the one which existed before, which is in conflict with their concept of a human morality. The discovery of outsiders brings to the surface one of the tensions at the heart of their political experience.

Considerable moral progress would take place if the views of those who are opposed to the reformulation of the internal point of view should prevail. In the first place, their success would represent a triumph for the idea that men simply as men are possessors of rights. This concept involves the idea of having duties to men with whom one has no interdependence. To fulfil moral obligations to simpler peoples, without expectation of benefit in return, signifies the autonomy of morality, the ability of men to be moral for its own sake. Secondly, the observance of such a morality represents the belief that simpler peoples possess moral equality and are as a result not to be treated merely as means. Thirdly, citizens of advanced societies who respect this morality impose these obligations upon themselves. It is simply the consequences of their own reason which constrain them. And lastly, the state can regard itself as belonging to a wider moral community and as having the obligation to consider a more extensive common good.

Now the condition reached indicates that the state is not the

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1. E. Burke, in *The Philosophy of Edmund Burke (a selection from his speeches and writings)* edited with an introduction by L.I. Bredvold and R.G. Ross, Michigan 1970, p.17.

conclusion of man's moral development. The state did not commit itself to the idea that man *qua* man has rights, and it has only done so through interaction with simpler peoples. Previously, the state has been concerned with establishing justice for the purpose of maintaining an order among individuals, and so it has not reached that stage where it advances the needs of a man unconditionally. However, now, in its relations with newly discovered outsiders, an unconditional act of benevolence becomes an ordinary part of moral practice. Let us consider, for example, the state assisting simpler societies in distress by sharing its goods without expectation of benefit in return. This act, performed simply from a sense of duty to the unfortunate, represents one of the ways in which the state performs its obligations to fellow-men.

With the discovery of simpler peoples the state for the first time makes more explicit the idea of rights and duties of men to each other rather than merely of the rights and duties of those who share a status within an association. This change represents a considerable change of outlook since morality is seen to follow the 'parallels of life' rather than of 'latitudes'. In considering how best to assist others the state has to make 'the effort at identification' with the experience of other peoples.<sup>1</sup> It has to consider carefully the impact its actions may have upon another society in order to decrease the risks of causing unintended harm. Therefore, the experience of relations with earlier societies will not only develop the state's sympathies towards outsiders; it will highlight some of the difficulties involved in acting from its 'good will'.

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1. A concept used by Bernard Williams, in *The Idea of Equality*, in *Philosophy, Politics and Society*, Second Series (ed. by Laslett and Runciman), Oxford 1967, pp. 110-131.

Now although this stage represents considerable progress on the way towards the development of the concept of rights and obligations of men, experience with earlier societies will not develop these ideas as far as they can be extended. For the range of relationships is relatively narrow and the transactions are without exception one-sided. Simpler societies are incapable of pressing far-reaching claims upon the state and are in the position of simply receiving from their benefactors. The relationship between the state and earlier peoples is too limited to allow a fuller development of what has already been recognised, namely that a man has rights and obligations by virtue of his being a man alone.

A more serious test of the state's capacity for moral development will take place in a condition where it is faced with associations capable of making quite far-reaching claims upon it. Let us imagine then that the state comes into contact with associations recognisably similar to itself, that is in possession of the legal and political apparatus of the state. With the emergence of this condition the state faces an entirely new set of moral and political problems and few parallels can be drawn with its experience with earlier societies. Its earlier experience differs substantially in that there the state acted upon earlier societies but could not be acted upon by them in return. But with the discovery of other political associations like itself this earlier situation no longer obtains as now the state can be acted upon by outsiders who owe their loyalty to a separate political association which is concerned with the protection of their private rights. For the first time the state has the status of being an object which can be acted upon by others who cannot as yet be trusted to regard it as an independently valuable form of association. With the development of

this phase men find themselves once again in a state of nature where it is necessary for them to solve the problem of how insiders and outsiders are to be properly related.

Now the state of nature before men in their separate, political associations varies considerably from the one known to members of ethnocentric societies. In the first place, men within existing states are not hostile to each other and derive no status within the group by injuring the welfare of outsiders. The separate state, and let it be assumed that all states are alike in this matter, is aware of a morality which is attached to the concept of being a man and has acted accordingly in its relations with earlier societies. On the other hand, its experience of acting upon earlier societies has made it aware of the problems of translating a morality into action for the benefit of men in different environments. It has experienced the frustration of its good intentions, and this will have taught it a certain caution when it comes to act and be acted upon by other states. In the second place, it becomes clear to it that states cannot avoid impinging upon one another, which was not the case when men knew only ethnocentric society. In the present condition each state is to some extent dependent on the others. The security of any one state is no longer dependent on its actions alone but upon the intentions and actions of other states. With the emergence of the causal connection of political associations as a whole, each state comes to consider itself in possession of interests which it must preserve and promote in its relations with others. The problem of the present state of nature is then the problem of separate associations capable of acting on their own independent judgments in a manner which is harmful to the interests of others. Men are capable of articulating a morality for their

condition, but they must first of all be certain that each state is prepared to regard the others as ends.

Let us imagine that, as with the problem of how to deal with early societies, the state divides into two points of view regarding right conduct. One point of view adopts the position that citizens are obliged first and foremost to each other, that the state is essentially an instrument of their ends, and that while obligations to other states must exist, given that men have rights in themselves, these obligations cannot be discharged where they are in conflict with the state's important interests. Consequently, they argue that the state must attempt to ensure that its own interests will be protected, although, wherever possible, it must avoid harming the interests of other societies. However, this position is certain that wherever important interests can only be safeguarded by imposing costs on outsiders, it is the duty of the state's representatives to place the interests of the state first. In opposition to them are those who are inclined to begin their response to the problem of right conduct in this new context by reflecting upon the rights men owe to each other. They believe that alongside man's division into states is an underlying capacity for morality which can be developed in the course of the historical development of inter-state relations. Consequently, exponents of this view argue that the state should not set out merely to promote its interests leaving obligations to the rest of humanity as a residual category. The state should be concerned first and foremost with receiving and granting a certain kind of recognition, one which understands the state as an agent for the realisation of the common good within a particular area. The first objective is then not the effort at receiving recognition as an agency for the promotion of

citizens alone, but rather as an agency which is concerned with a common good which is capable of being extended. For the exponents of this view man's capacity to ground his relations on moral principles can be developed in the course of the relations between states.

Let us consider then how the relations between states develop the process whereby men come to a fuller understanding of their moral universality. The present condition is one of uncertainty where states fear for their security, and so it is necessary for them to adopt measures which will preserve their security and welfare. Now the first action in the new condition will indicate, insofar as intentions can be read properly, the likely disposition of any one state to the states around it. And since these others are concerned with gaining recognition from others as agencies for the advancement of a particular common good they will be careful to react in a way likely to assist the granting of that recognition. Therefore, a state which pursues a course of action which ignores the interests of others will find that they react in a hostile manner in the light of this decision to discount their ends. And in the process of so doing they indicate to that state the fact that they understand their ends to be of importance and wish them to receive consideration in the relations between states. Similarly, a state which finds its interests are taken into account, again assuming that intentions have been judged correctly, finds recognition for the status it seeks, and can be expected to react accordingly. Therefore, within the condition as described, states become involved in a kind of communication through action and reaction whereby each state seeks acceptance of its required status - which is to be regarded as an end in the eyes of others. And, in so doing, they are demanding albeit in a limited way the extension of the area of the

common good. For what they are not prepared to accept is a condition where their interests are discounted for the sake of the interests of others. They are involved then in a process of claiming a certain kind of equality from each other, one where each other's interests receive recognition in any decision to act. And so, in the course of their relations, through conflict as well as co-operation, men demand some extension of the common good whereby states are prepared to recognise the restraints of existing alongside other communities prepared to act in defence of their ends.

By a process of action and reaction each state learns that others wish to affirm their existence as independent ends. The use of conflict indicates to others that the state as an agent for a particular common good will not let its ends go unconsidered. In the earlier stages of the development of international relations states come to see each other as independently valuable ends, a recognition which is impressed upon them out of necessity. The recognition of other states as one's equal is extracted from the state partly through a pragmatic concern for its own interests since it knows that what it claims for itself will be claimed by others or opposed by others where it is incompatible with the satisfaction of their independent ends. But this recognition is also granted through a respect for the fact that others are prepared to resist any move which deprives them of either their ends or their ability to attain them. The relations between states are designed at this stage to affirm the fact that each has a dignity which must not go unnoticed by the rest.

Now in conceding that other states have this dignity, each state comes to see itself as part of a society of states. A society

is formed in the sense that states consider themselves obliged to accept some fundamental rules in the conduct of their relations. Now these fundamental rules establish the independence of states and the equality of their independence. In the first place, through their interactions states have gained recognition for their territorial rights and their right to decide upon the nature of their own governments. What is established is the equal sovereignty of all the states - their liberty, their right of non-intervention, their right of representation on any diplomatic forum. It is granted that all states have the capacity for rights and obligations as members of a society of free states. And the rights which they acquire reflect their membership of a society of equals. All states are agreed, furthermore, upon the right organisation of the world, which is that it be comprised of naturally free societies.

The agreement upon the framework within which they act - defined as a society of free communities - places certain major restrictions upon the nature of the relations between states. It is necessary, for example, that states acknowledge the obligation of refraining from attempting to eliminate one another and from subverting the internal processes of government elsewhere. There are rules which exclude the use of force for particular purposes. However, these purposes aside, states have not accepted any obligation to refrain from pursuing their ends through the use of force, or to avoid certain means of conducting any war in which they might become involved. Their obligation to respect each other's free status does not of itself establish the nature of right conduct with respect to these issues. Let us consider that at this stage states insist upon their rights to pursue reasonable interests (where reasonable refers to being

compatible with the general structure of their society) through the use of force and through whatever means are necessary to attain their ends. Now there are again two reactions to this condition, one of which maintains that the state might contract with others to either avoid the use of force altogether or to recognise various restraints in the conduct of war, the other of which asserts the existence of obligations to avoid the use of force other than for the purpose of self-defence or for the assistance of a victim of aggression, and to impose little costs on others in the conduct of war. For the latter, it is not sufficient merely to perform the obligations of membership in a society of free states; it is necessary to establish principles which define the nature of reasonable recourse to force and proportionate use of it. Men, so it may be argued, are in a state of nature, albeit one where men are agreed upon the fundamental structure of their society of states, but they are not entitled to do as they wish with regard to matters set apart from the fundamental obligations they already have. They are obliged, once again recalling the restraints which surround them, to attempt to articulate rules for the management of their particular relationships, those relationships which have no direct bearing upon the natural society of states but which are to be governed by justice nevertheless. For the point of view now considered, the next stage in the development of international relations requires the elaboration of more specific principles for the regulation of greater areas of international life.

Partly from enlightened self-interest and partly from a developing sense of international morality, states enter into a phase of formulating more precise social rules for the ordering of their relations. These rules consider states as equals, but govern a larger

sector of their lives. The emergence of such rules does involve, however, a qualitative change in the manner in which one state stands to another. Through a process of action and reaction states affirmed their nature as equals and this found expression in their claim to be sovereign and independent. Now while such ideas provided 'the starting-point for the free organisation of an international society' by establishing definite limits upon one state in its relations with another, the refusal to 'budge from that point' may thwart the further development of an international society.<sup>1</sup> As we have noted, the principles of a society of sovereign states would not necessarily include consideration for the welfare of, for example, innocent persons caught up in an international conflict. The refusal of states to move beyond their sovereign equality, which was a fundamental objective only in that early condition where states could not be certain their interests would be protected, inhibits the development of a more inclusive moral community. But when that right has been conceded states may move on to a concern for the elaboration of more specific rights and duties which take into account, as in the case of the rules of warfare, the welfare of the individuals who comprise the political community. Sovereign equality is for them a guarantee that some of their fundamental interests will not be ignored by others, at that stage of their social development where the state is the main agent for the promotion of their welfare. But unless the state is prepared to bend the principle of equality in order to secure the welfare of its citizens through recognition of specific rules, its attempts to have its status recognised as an agent of a particular common good will

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1. D. Mitrany, *The Progress of International Government*, London 1933, p.53.

have been meaningless. For then the principle of equality will stand in the way of the enhancement of that common good as well as others.

If the separate state is to fulfil its nature as an agent for its particular common good, it will be necessary to seek to establish more particular principles for the state-system. In its effort at securing the welfare of its citizens the state adopts a changed perspective. In an earlier stage of the development of international relations, the state was involved in the search for recognition through action and reaction, stimulus and response. But now the basis of its 'conversation' changes as the state is concerned to secure recognition for social rules rather than for a particular status for itself. To this end the state must articulate the principle upon which it acts, or, in Kantian terms articulate the maxim of its action, in the attempt to secure recognition for a principle of international relations. And to the extent that all states act in this way, a dialogue is initiated through which states can articulate particular rules which they consider binding for future conduct. Through the communication of claims set in the form of general principles states initiate a process of attempting to gain acceptance for certain customary rules which oblige them.

International relations therefore develop the language of claims. With this stage, states are concerned to seek recognition for certain conditions and objectives to which they wish to have a right. However, for a state to possess a right other states must possess duties and be prepared to discharge them. For this reason, states do not assert that they have rights by virtue of their existence - other than the right of recognition as an instrument for the realisation of a common good - but only by virtue of the recognition of others.

Therefore, states advance claims, which are 'undecided rights'<sup>1</sup> for the consideration of others, and the appropriate channel for such communication is diplomacy. Now it is only possible to advance claims within a certain context, which is best seen through contrasting claims with other modes of addressing appeals to others. To address another state in the form of a plea reflects the inequality of the parties; likewise, although in a different way, to address another in the form of a demand. While the demand assumes that the other has no right of refusal, and the plea assumes that the other has every right of refusal, the claim assumes that the other is an equal, that he is capable of responding sensitively to the content of the claim and is, in short, capable of being in a moral relationship with its author. The language of claims presupposes and seeks to develop relationships which already possess some moral content - in the case of international relations in the present phase it presupposes and develops the moral status which states have secured in recognition of their status as sovereigns. However, now states are prepared to seek to enlarge their society through dialogue and diplomacy.

Of fundamental importance in the developing phase is the idea of reciprocity. By proceeding in accordance with a general principle of reciprocity states accept that their condition is one of equality and therefore no state should claim for itself what it would challenge if advanced by others. States are concerned with the language of claims in order to discover what is universalisable, what all states can accept given their condition. The rights they asserted in the first stage of inter-state relations were not then to be entrenched

1. The idea that a claim is an undecided right is to be found in Hegel *The German Constitution*, in *Hegel's Political Writings* (translated by T.M. Knox and introduced by Z. Pekzynski), Oxford 1964, p.211.

in any and every future international order. They are not the natural rights of states, which they have inherent in them at all times. . They are rather the rights upon which states must insist before they can proceed to conduct more sophisticated moral relationships. They may then proceed to consider further rights and duties which 'are to be deduced, not from a hypothetical state of nature preceding the existence of any community, but from that which the world community regards as 'natural' in the sense of being 'that which ought to be' in a particular stage in the development of the relations between the community and the states which constitute an essential element of its structure'.<sup>1</sup> They may then proceed to discuss more particular rights and duties which are not 'absolute' and not 'self-subsistent' but 'require restatement and modification as historical circumstances change'.<sup>2</sup> By employing a principle of reciprocity states indicate a willingness to take into account the interests of others in formulating policy, to respond to their interests and be accountable to them. It is for this reason that states have recourse to more sophisticated diplomatic procedures at this point in their evolution.

The sources of a concern for reciprocity may simply reflect, of course, the state's calculations concerning its interests. The observance of rules of reciprocity may encourage an atmosphere of trust which may lead, so it believes, to an environment in which it may more easily satisfy its future interests. Therefore, '... state A refrains from the assertion of a claim x and defers to the competing interest of state B in order to encourage state B (and possibly other states as

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1. C.W. Jenks, *Law, Freedom and Welfare*, London 1963, p.90.

2. M. Ginsberg, *op.cit.*, p.170.

well) to refrain from making a claim similar to x when A has a competing interest in its non-assertion'.<sup>1</sup> The willingness to respect a principle of reciprocity may simply reflect the fact that in a condition where each state impinges upon the interests of others some manner of constraint is essential. Despite its intentions, however, the state becomes involved in affirming that there is a distinction between reasonable and unreasonable behaviour and additionally criteria for their separation. And this in turn does give rise to 'community expectations about right action' which can hardly be infringed with impunity.<sup>2</sup> For 'the acceptance of this obligation to demonstrate the reasonableness of a controversial national claim is a development of legal accountability that extends beyond the classical notion that a sovereign state is entitled to do whatever it is not forbidden from doing'.<sup>3</sup> Furthermore, 'a refusal to satisfy the demands of minimal reasonableness discloses an unwillingness of a nation to acknowledge the will and welfare of the world community is an important determinant of national policy'.<sup>4</sup> Whatever the intentions of the state, which chooses to express its claims in the form of reasonableness and reciprocity, the consequences of its actions are - within that stage where many states are concerned with advancing their society - to increase

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1. R. Falk, *The Role of Domestic Courts in the International Legal Order*, Syracuse 1964, p.45.
  2. R. Falk, *The Status of Law in International Society*, Princeton 1970, p.34. The full quotation reads: 'Law provides a technique for narrowing controversial claims, for communicating the precise nature of the demand, for paying maximum respect to community expectations about right action, and for encouraging a rival to respond with arguments rather than weapons.'
  3. R. Falk, "World Law and Human Conflict", in E.B. McNeil, *The Nature of Human Conflict*, New Jersey 1965, p. 237.
  4. R. Falk, *ibid.*, p.247.

the number of customary rules held to oblige 'sovereign' states. It is therefore the case that the state makes an appeal beyond the outcomes of particular situations as these bear upon its own interests. Instead it makes its appeal to the implications, for the state-system as a whole, of the maxims upon which it proposes to act.

With the development of the idea of reciprocity come two important consequences. In the first place, a distinction is evolving between actions which are the concern of the state alone and actions which affect other states to the extent that they ought to be allowed some say in what is to be done. The principle 'quod omnes tanget ab omnibus approbetur' develops into one of the more fundamental assumptions of the state-system. In addition, the principle of reciprocity does involve states in considering the justice of their claims. They recognise that in matters which substantially affect the interests of other states it is important that they act upon a universalisable principle. However, these two principles together cannot provide a sufficiently precise definition of the justice of state claims. First of all, the state cannot be satisfied with referring its claim to 'community expectations about right action', but must be concerned with the development of right expectations about conduct. The first formulation allows states an independence of judgment which the formulation of principles of right conduct would remove. A more rational foundation for assessing the justice of state claims becomes essential. Secondly, the state cannot be satisfied with a principle of involving other states in decisions which affect their interests in a significant way where other states remain the sole judge of what has a significant impact upon their interests. Once again, more precise rational principles require formulation. Thirdly, the principle of reciprocity, although

indicative of a willingness to consider the entire state-system as an ethical reference point, is too formal to provide an adequate basis for the evaluation of the justice of state claims. For some states may in particular situations be prepared to universalise what is unreasonable conduct as seen from the vantage point of the state-system as a whole. They may be willing to act simply for the sake of their own national interests or for ideals while conceding that other states have the right to behave similarly.<sup>1</sup> For these reasons the state-system has not acquired sufficiently precise rational criteria for the assessment of its members' claims.

Reciprocity is instrumental in heightening the level of responsibility to the state-system, but it may become, like the principle of sovereign equality, an obstacle to change if states do not move beyond it. To move beyond reciprocity it is essential that states reach a higher awareness of the idea of justice, which is already contained within the idea of reciprocity, albeit in only a formal sense. There is need of a shift from the obligation of the state to consider whether or not it ought to perform an action given the likely response of the state-system, to the question of whether or not it should perform the action given rational principles of morality. And the latter outlook

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1. Let us take for example the case of the fanaticism of the Nazi who is prepared to send himself and his family to the gas-chamber on the grounds that his Jewish ancestry has been discovered. Clearly, in this instance, an appeal to universalisability alone does not deter the Nazi from acting out his racist beliefs. See R.M. Hare *Freedom and Reason*, Oxford 1963, ch.9, and especially p.184 where the author remarks that the Nazi 'will remain unshaken by any argument that I have been able to discover'. While Hare acknowledges 'a very great debt to Kant' (p.34), one of Hare's critics notes that on Kantian principles 'the Nazi would be obliged to desist in his persecutions'. H.M. Curtler "What Kant Might Say to Hare", *Mind* 1971, pp.295-297. It is for this reason that the present discussion moves beyond reciprocity to more precise rational criteria for assessing inter-state claims.

can succeed in relating the rationality of an action to the condition of international relations, or any part of it, at a particular time while removing the judgment of rightness from states themselves. The change here is from a concern for reciprocity, given that states can frustrate each other's ability to satisfy their interests, to a concern for justice as worthwhile in itself. What is required for further development of international relations is a move from what the community expects to what the community has the right to expect. It is an attempt then to articulate more precise rules of international relations formulated with regard to a rational morality. And this rational morality is concerned, so it will be argued, with doing justice to men as ends in themselves, as understood within Kant's moral philosophy.

The present phase in the moral development of intersocietal life is characterised by the desire to do justice to the welfare and interests of different communities. In its relations with outsiders the state uses just principles which apply impartially to all parties. The separate state is therefore prepared not to have an outcome which would be most in its self-interest where such an outcome is in conflict with its desire that the interests of other states should have equal consideration. When men arrive at this phase, it is essential for them to search for an answer to this question: 'Does there exist a reasonable decision procedure which is sufficiently strong, or at least in some cases, to determine the manner in which competing interests should be adjudicated, and, in instances of conflict, one interest given preference over another; and, further, can the existence of this procedure, as well as its reasonableness, be established by rational methods of inquiry?'<sup>1</sup> Now the author of this remark, John Rawls, has

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1. J. Rawls, "Outline of a Decision Procedure for Ethics" in J.T.Thomson and G. Dworkin, *Ethics*, New York 1968, p.59.

suggested one ingenious method for discovering just outcomes. And this method requires that men choose the principles which will govern them behind a veil of ignorance which deprives them of knowledge about themselves since such information is likely to lead them to select principles most favourable to their own personal interests and inclinations.<sup>1</sup> Now this veil of ignorance is of considerable usefulness with reference to the kind of outlook states need to adopt to ground their particular relations on just principles. For, if a state is to do justice to the interests of others where these are in conflict with its own, it is essential that it be prepared to judge from a perspective which will not favour its own interests. And to enable it to perform its task of acting justly, a state in conflict with another might well attempt to imagine what would be selected by the parties in dispute if neither knew its particular interests but knew what was at issue in the dispute between them. Such a procedure ensures at least that states approach the resolution of their dispute with a spirit of impartiality. In any dispute then states choose an outcome behind a veil of ignorance which removes their knowledge of their particular characteristics. To all intents and purposes, states form a more inclusive unit in order to find an outcome which does justice to their conflicting interests. As one author has suggested: 'When such a conflict occurs it can be resolved only by applying the contract argument to the unit, that is to that society which includes but is not included by the other. The interest of every one who stands to be

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1. It should also be pointed out that Rawls expects men to adopt self-interested motivation within the veil of ignorance, an assumption that is discarded within the present argument. For this reason, the veil of ignorance seems of value principally as a heuristic device which symbolises features crucial to the Kantian understanding of morality. For some additional remarks on Rawls, Kant and the theory of international relations, see below pp. 319-324.

affected by the class of actions in question can be taken into account only by applying the argument to the including society'.<sup>1</sup> Choosing within the veil of ignorance is tantamount then to recognising that states are members of a more inclusive moral community, and that their interests cannot be pursued at the expense of the principles which members of that community must be expected to honour.

Through the operation of such a decision-making procedure states may be expected to gradually articulate the principles which ought to govern men simply as men. For, at the stage reached it is not perfectly clear how men are to choose within their veils of ignorance. All that has emerged is the kind of constraint men must recognise when they come to choose. Let us assume then that in the course of employing such a decision procedure men come to think of themselves as beings who are bound to act on principles which other men could accept as rational creatures. They develop then a sense of their possession of a rational nature which underlies their division into separate cultures and political associations. They come to think that the ends of others are to be considered equal to their own, that they have a duty to advance them insofar as they are compatible with the ends of others, and they further suppose that men are to be treated in accordance with principles they could select for themselves - irrespective of the community to which they belong.

There is one fundamental implication contained within the stage which has now been reached. When the state accepts that its ends are to be judged and perhaps invalidated by some decision-procedure similar to the veil of ignorance, it admits that there are situations

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1. G.H. Grice, *The Grounds of Moral Judgment*, Cambridge 1967, p.152.

where its citizens are obliged to recognise that the interests of another state have preference over its own. And indeed where the state refused to recognise the interests of another state as prior to its own, those of its citizens more sensitive to the moral issues involved would have the right to disobey the state. Such citizens, who are concerned that their obligations as members of a larger moral community be enacted, would be opposed to the state on the grounds that their allegiance in this situation is to a higher international morality. As the state comes to think of itself as belonging to a more inclusive moral community then so must citizens regard themselves as possessing the right of opposing their state.<sup>1</sup> For in addition to being citizens they consider themselves as moral agents with duties to the members of other societies. And therefore in addition to the idea that the world is a division of sovereign states there comes into being the idea that it is a moral community whose ultimate members are not states but individuals. Such a realisation has major repercussions for the way in which one state can stand in relation to others. For now states not only have obligations to other states, which the initial steps in the development of international relations helped to establish, but additionally to the individual members of other states, just as those individuals have obligations towards them. The emergence of an identification with such a moral community will necessarily pose a challenge to areas of state sovereignty, other than those previously challenged, in the attempt to narrow the range of areas where the state may decide without having to consider the interests of others.

In the new phase men come to think of themselves as forming an

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1. This condition is clearly opposed to the internal point of view where the individual might be allowed a liberty but certainly not a right of disobedience. See above pp. 38-39.

international community of individuals. They hold the view that men are equal through the possession of fundamental moral rights. Now states have come to this perspective through their relations with one another and through a willingness to resolve their differences by a method which treats the interests of the parties impartially. In the present condition states do not take the view that all interests are to be treated impartially simply for the purpose of discovering a fair outcome in particular circumstances where they are in conflict with one another. Rather, the idea that all men, irrespective of state membership, have an equal right to have their interests considered in accordance with rational principles becomes a fundamental principle of inter-state relations. Now, it does give rise immediately to new circumstances where more radical claims can be made between states. For example, one state may claim of a richer neighbour that it should provide the former's population with economic assistance where it requires it. It might furthermore ask for assistance in order to remove a regime which does not respect the rights of its citizens, and, indeed, other states may consider themselves under a duty to provide assistance, other things being equal, in order to accomplish that end. For the condition reached is one where social relations 'have now advanced everywhere so far that a violation of right in one place of the earth, is felt all over it'.<sup>1</sup>

The emerging phase is one in which men are gradually coming to consider themselves as members of 'a kingdom of ends'. However, to discuss more fully the final stages in the moral development of inter-societal relations, it is necessary to consider some of the changes

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1. Kant, see above, p.218.

which will have been produced within the state as the idea of moral equality has become established. In earlier stages the state symbolised the individual's freedom from the constraints of his natural society and his liberty to promote his own interests. The state appeared first of all as an instrument whereby men could pursue their interests within a legal and political order capable of establishing some important degree of security among them. They did not, at this stage, think of themselves as possessing moral duties which required them to live within the parameters of a state. The state was simply an instrument which men could establish if they wished in order to enjoy the capacity to pursue their individual interests. However, in the course of the myth, men have come to emphasise their being moral agents capable of obeying universal laws in their relations. Now this capacity was simply latent in man's earliest attempt at social organisation, but in the course of seeking right relationships with outsiders, it has gradually become more manifest in man's changing definition of himself. Fundamental to this change of outlook is the view that men ought to stand to one another in a legal and political relationship as of duty. They take the view that the state is necessary not as a mechanism whereby men may satisfy their interests within a condition of relative security, but as a means of enhancing the moral order that can exist among them. They are here in agreement with Kant's view that:

'it is not experience that makes public lawful coercion necessary. The necessity of public lawful coercion does not rest on a fact, but on an a priori idea of reason, for, even if we imagine men to be ever so good natured and righteous before a lawful public state of society is established, individual men, nations, and states can never be certain that they are secure

against violence from one another, because each will have his own right to do what *seems just and right to him*, entirely independently of the opinion of others. Consequently, the first decision that he must make, if he does not wish to renounce all concepts of justice, is to accept the principle that one must quit the state of nature, in which everyone follows his own judgment, and must unite with everyone else (with whom he comes in contact and whom he cannot avoid), subjecting himself to a public lawful external coercion; in other words he must enter a condition of society in which what is to be recognised as belonging to him must be established lawfully and secured to him by an effective power that is not his own, but an outside power. That is, before anything else, he ought to enter a civil society.<sup>1</sup>

According to this view, the value of the state lies not in the benefits brought to the individual (although benefits there will be) but in the fact that a moral agent ought to recognise a competent authority with the capacity to protect the rights of men. The worth of the state follows from the fact that a moral agent cannot be satisfied *qua* moral agent with a condition where men's rights are insecure. And it is for this reason that men should recognise an obligation to belong to a civil society.

In their earlier condition the state appeared as a mechanism which both symbolised the freedom of the individual from his natural society and protected the liberty of individuals to promote their interests. However, in the course of their history men have come to think of themselves as beings capable of evolving a rational morality which treats all men as ends in themselves. In this condition they begin a process of judging the rationality of their interests through an appeal to a morality which is essentially Kantian. Significant

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1. Kant, *The Metaphysical Elements of Justice*, *op.cit.*, p.76.

here is the emergence of the use of the idea of the social contract for the purpose of deciding valid laws within their society.<sup>1</sup> And the contract reflects the fact that men consider themselves as belonging to a community, to what Kant called a 'kingdom of ends', through which men both establish right laws among themselves and further promote their status as members of a moral community. The use of this mechanism indicates the belief that right relationships should be grounded upon principles to which rational beings could willingly give their consent. Conversely, the right form of political association is one which expresses man's nature as a rational being capable of giving moral laws to himself.

The use of this procedure has also made some appearance in the state's conduct of its external relations. It was to some extent implicit within the state's willingness to regulate its claims upon others by a principle of reciprocity. For there is a concept of justice involved in the willingness of the state to regulate its actions by such a principle. But since this principle is formal and since the motive for its employment is a desire for creating community expectations (so that the state will take account of the interests of others) it can be regarded as having a place only within a 'transitional' phase in the development of international relations.<sup>2</sup> It belongs to that stage of international relations where the state is concerned with securing greater consideration for the welfare of its own citizens

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1. On the social contract as a test of validity, 'an idea of reason', see above p.228.
  2. The idea of 'reciprocity' as a means for developing 'community expectations' during the 'transitional' phase of international relations is developed by R. Falk in *The Role of Domestic Courts in the International Legal Order*, *op.cit.*, p.45: 'The possibilities for order in a horizontal system depend upon how well mechanisms of reciprocity are used.'

than would be possible were states to remain with only the principle of sovereign equality to protect them. However, the use of the contract as a procedure for promoting just relations between states develops through the concern of states to secure just outcomes where their interests conflict with each other. And the veil of ignorance is symbolic of a willingness to seek an outcome which relies on principles to which all parties could freely consent. But the progress of states in their movement towards a more inclusive moral community cannot be ended at that point where states apply the idea of a contract among rational men to only those relations where their interests have come into conflict. To be satisfied with the application of the contract on only an ad hoc basis would be to fail to explore all the possibilities of such a device for the promotion of a more inclusive moral community.

The stage has been reached where 'the idea of humanity in the abstract has been attained as a moral ideal. But the political organisation of this conception, its embodiment in law and administrative agencies, has not been achieved'.<sup>1</sup> Now it will be clear to separate, political associations at this point that their own condition, which is a state of nature, is an obstacle to the development of a more inclusive community which possesses its own set of institutions. The state, rather like the ethnocentric society before, must recognise that the existence of obligations to outsiders requires that it give way to more inclusive associations more able to ensure the enactment of obligations to humanity. The fact that outsiders are ends by virtue of a universal morality requires states to come to an understanding whereby principles are formulated to enable them to live

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1. See J. Dewey and J.H. Tufts, *Ethics*, New York 1908, p.482.

together civilly. For example, states ought to be prepared to submit to an international court with the power to lay down binding decisions on the issues involved in international legal disputes. The willingness to set aside sovereignty so that international legal institutions can develop jurisdiction over such matters is a necessary condition of the development of organisations with specific responsibilities for protecting obligations to humanity. Similarly, states ought to be prepared to enable international institutions to take decisions by majority vote with regard to matters affecting them all where possible. Such developments, in short, must be aimed at establishing a distinction between what belongs to the jurisdiction of the state and what belongs to the jurisdiction of international institutions, the ensuing condition being a federation of states where obligations to fellow-citizens and obligations to fellow-men both find expression in their respective sets of institutions. Now the establishment of such institutions may seem improbable, although it has been argued that:

'Nothing could be more absurd, from the historic point of view, than to regard the conception of an international State of federated humanity, with its own laws and its own courts and its own rules for adjudicating disputes, as a mere dream, an illusion of sentimental hope. It is a very slight step to take forward compared with that which has substituted the authority of national States for the conflict of isolated clans and local communities; or with that which has substituted a publicly administered justice for the regime of private war and retaliation.'<sup>1</sup>

The movement from a 'horizontal' order, one managed by states, to a 'vertical' order, one shared by states and international institutions,

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1. *ibid.*

is no more impossible than the step from ethnocentric societies to the state itself.<sup>1</sup> And indeed it is no less desirable, if obligations between men are to be entrenched in adequate institutions.

The main concern of following sections is not, however, with likely or desirable alternatives for future world order but with the principles which any theory of future world order might consider. The method for elaborating such principles draws upon the idea of the social contract as described in relation to the attempt both to find a just outcome for international disputes and to find a right order for the state itself. It is simply that the members of a state should test not only their acts but the nature of their association itself with reference to a 'universal' social contract. The members of any separate political association, by virtue of their rational nature and the universal morality implicit within it, are obliged to test their actions with reference to the idea of a social contract which includes the whole of mankind, the most inclusive society possible. And in referring their actions to the test of such a contract, citizens are having recourse to an 'idea' rather than to a contract which is sociologically observable. Citizens imagine themselves as members of a 'kingdom of ends' not yet in existence but which they are obliged to bring into existence through their own efforts. The fiction of the universal social contract simply reflects the fact that citizens in addition to their membership of their separate political associations form a moral community as extensive as mankind itself. It is

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1. For the distinction between 'vertical' and 'horizontal' order, see R. Falk, "International Jurisdiction: Horizontal and Vertical Conceptions of Legal Order", *Temple Law Quarterly* 1958-59, pp. 295-320.

simply a fiction which makes possible the conduct of external relations in accordance with principles which, if universalised, would allow the organisation of world society to be grounded on principles which emanated from the rational nature of men and so reflected their moral freedom.

The myth has developed to the stage where the members of a separate, sovereign state reconsider the status of their association in light of the idea that all men have fundamental moral obligations to one another. Recourse to a fictional universal social contract reflects the willingness to order the actions of the separate state by the obligations held to follow from belonging to the most inclusive kingdom of ends. The separate state does not propose to act as a particular group prepared to defend and promote its interests against the remainder of mankind. An appeal to a universal social contract indicates a willingness to set aside consideration of only its own particular state interests and to judge and limit these interests with regard to its universal moral obligations. The universal social contract serves to prevent the state from claiming an unequal liberty against the rest of mankind thereby avoiding a tension between the obligations citizens owe to one another and the moral obligations held to oblige all men. The awareness of these obligations places limitations upon the kind of political association men can establish with reason at the 'local' level. This concept of obligation has a crucial role to play in deciding the rationality of such an association. For once men have arrived at the idea of universal moral obligations they cannot recognise as legitimate any association which would appear incompatible with the development of international institutions which can give obligations to humanity their conclusive form of expression.

The contract contains the idea that for a state to be legitimate it must have satisfied not only 'internal' criteria - for example, reflecting the consent of its citizens - but a set of 'external' criteria which are expressed in the contract. Let us now consider the way in which such criteria come to define the status of the separate political association, and articulate more specific principles for its external relations in relation to a more general view that as an association the state is to be surpassed by institutions more capable of expressing man's capacity to enlarge his moral community.

CHAPTER TWELVE

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The Universal Contract  
and the  
Principles of International Society

The universal social contract is concerned with a number of rules and prohibitions which all men have an obligation to establish and preserve at the level of international relations. One author has remarked: 'If we are to speak of our obligations as members of a society of humanity as a whole, the theory requires that there are some classes of actions regarding which it is in the interest of every man on the surface of the earth to make a contract with each other'.<sup>1</sup> The content of such an agreement binds every man to every other irrespective of the society to which he belongs and places limitations on the nature of any political society that might be established at the local level. By this means any society that passes the test of the universal contract can be sure that the obligations asked of citizens will be compatible with the obligations they also have simply as men. Within such a society there ought not to be a tension between the obligations owed to citizens and the obligations owed to fellow-men, and no separate political society would have claimed an unequal liberty against outsiders.

It will be recalled that for Kant the test (although not the essence) of a moral action is found by asking whether that action, if universally adopted, would bring nearer the realisation of the 'kingdom of ends' - that condition where men were free to seek their ends within a harmonious community grounded upon rational laws expressive

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1. Grice, *op.cit.*, p.152.

of human rationality. The universal contract is concerned precisely with this end - of ensuring that any separate political society that is established will be compatible with the future emergence of an international 'kingdom of ends'. It is concerned with testing that the principles upon which the separate society is founded will not prevent that condition where the members of different societies cooperate to govern their international society with rational laws which treat all men as ends in themselves. Any political society which passes the test of the universal contract will therefore have satisfied other men that it is prepared to honour its international obligations towards them and that it is, in principle, capable of taking its place within a civil society for the whole of mankind.

Let us now relate these remarks to the condition reached in the myth. We are to imagine the existence of a separate state which has in the course of its history come to regard itself as an agency for the rule of justice among men considered as ends in themselves. For this state the rule of justice is protected among its members alone simply on account of its historical development apart from other men. We may imagine that some other states will have established the rule of justice and wish to broaden the sphere of its application to include others. Other states, however, may not have reached this stage and may wish to preserve their liberty to act against outsiders. States which wish to expand their moral community face then complex problems in overcoming the state of nature which they comprise. The problem of such states in this condition is to devise principles for guiding their external relations not only with similar societies but with those who are as yet unprepared to recognise fundamental international obligations. Such states judge the principles upon which

they will act by asking if a universal contract of rational men could consent to them, and the results of this method will establish for the state some fundamental principles to guide its conduct. Now it is not possible to consider a great variety of actions that might be so tested; but what is possible is the testing of more general principles under which a great variety of actions would fall. Therefore, the universal contract can test some general ideas regarding the rights of states, the morality of private persons and statesmen and the theory of international co-operation - for these are the three areas upon which much of the earlier analysis has been grounded. It has also been argued that the internal and external points of view of obligations are separated in terms of the different approaches they take to these concepts. Now these two points of view are abstractions from the nature of the modern state. For both are found there; but they are also found in the nature of the state as understood within the myth. Throughout the states' development a possible tension between two points of view has been indicated at several junctures, the one wishing to maintain the right of the state and its members to pursue their interests, while the other wished to press for progress understood in terms of the continuing expansion of moral community. Now such a division may be said to persist in the state in the present phase in the development of the myth. And in attempting to decide what stand that state should take with regard to the internal and external points of view, the following section indicates also the position to be taken with regard to the conflicting recommendations made by these points of view to the citizen of the modern state. Let us now begin this task by considering the conclusions of the universal contract with reference to the rights of the state.

Members of a universal contract could not allow any group of individuals to consider the nature of the separate political association they will form without any reference to the remainder of humanity. The remainder of humanity would be concerned with the promotion of its rights and could not allow these to be ignored by any particular group among them. The legitimacy of the separate political association is not found in the fact that the association satisfies various 'internal' criteria, for example by being based on the actual consent of its citizens. Its legitimacy depends also upon having satisfied 'external' criteria - in this case the test of the universal contract. And this is necessarily true of the rights of the state also. These rights do not inhere in the state absolutely through for example the decision of citizens to transfer their rights to it. They are validated through their being compatible with the requirements of the universal contract.

Let us now consider in more detail how the contract would treat some arguments for the rights of states. At a certain stage the state has to insist upon its right to sovereign equality since it wishes to be recognised by others as a legitimate agency concerned with the promotion of a particular common good. The state, moreover, may have to use force to establish this status - for example, to defend itself against aggressors - in order to ensure that other associations are prepared to take its ends into account. Now the right to use force does not stem from some original right once possessed by individuals and now transferred to the sovereign in perpetuity. Indeed, the universal contract could not validate the right of the state to use force on its own judgment and for its own interests. For this places the rights of other persons in an arbitrary condition where they are made

dependent upon the subjective judgment of a particular political association. It would be impossible for the state to establish itself as a self-interested association since the universal contract could not permit a group to act only on behalf of its interests alone. What it can permit, however, is the right of the state to use force in an earlier condition to preserve itself as an agent for the promotion of the welfare of its citizens considered as ends in themselves. For this end, unlike the previous one, is compatible with the development of a universal kingdom of ends, or, would be if the state is prepared to treat men other than its own citizens as ends in themselves.

If the universal contract permits the state the right to use force to defend its particular good, it is partly with an eye to that state eventually regarding itself as part of a more inclusive kingdom of ends. For the universal contract regards the state as a trustee for a portion of humanity, preserving its good until it is possible for its inclusion within a more inclusive association. But it is not obvious that every state will be prepared to be included within such an association. A community might argue, for example, that due to its shared history and common ways it would prefer to remain separate from others. The universal contract could permit some institutional expression for defined regions and cultures, but it could not pass the idea that a group has the right to preserve a legal and political system only among its own kind while it remained in the state of nature with those who have a different history and distinct cultures. Legal and political institutions exist to protect the rights of humanity and therefore a refusal to consider some form of association with outsiders simply on cultural terms would be illegitimate. It may be said that 'there is no convincing reason why the fact that people

\ speak the same language or belong to the same race should, by itself, entitle them to enjoy a government exclusively their own. For such a claim to be convincing, it must also be proved that similarity in one respect absolutely overrides differences in other respects'.<sup>1</sup>

It would also have to be shown that the rights of other men could be ignored simply on the basis of their not sharing a common history or language or culture. Rational men in a universal contract would be unable to consent to this claim since the protection of the rights of men cannot be set aside on the grounds that some men can evidently associate more easily with some rather than with others. While it is reasonable that regions and cultures should possess their own political institutions it is unreasonable that such institutions should be sovereign and exclusive.

A state which refused to recognise any institutions other than its own sovereign ones would not be compatible with the continuing advancement of moral community. For the state has the obligation of submitting first of all to international legal institutions with the authority to deliver binding decisions. And this objective, which all rational men would desire, must override any claims to belong to a sovereign state in perpetuity.

The obligation to submit international legal disputes to an international agency is a function of the fact that a state's claims cannot be imposed on others unilaterally, but require the validation of the international community through its procedures operating in accordance with rational principles. Actions are therefore referred to the international community to which the state is accountable. Now

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1. E. Kedourie, *Nationalism*, London 1960, p.80.

the state is not simply accountable for those of its actions which belong to its foreign policy while it retains domestic jurisdiction over matters of primary concern to itself. For this distinction is impossible to establish in any hard and fast fashion within an international society. Let us consider two areas with regard to this point - the distribution of economic resources and the protection of the citizen's human rights. According to the principles underlying diplomatic society the state retains jurisdiction over its economic resources, and has the sovereign right of deciding how its resources are to be used. Limitations upon its capacity to do as it pleases exist either on account of interdependence or the decision to share responsibility with particular states or institutions in order to improve the state's condition. However, if the state is permitted an absolute jurisdiction over its economic resources outsiders would have no right to receive assistance, but could only make claims for aid which potential donors could recognise or reject according to their own subjective judgment. As a result, poverty and its avoidance would depend upon an arbitrary fact - whether one happened to be born in a rich or a poor society and whether one's society was capable of extracting minimal or considerable levels of the world's resources. But members of a universal contract could not allow their ends to be dependent upon such natural facts for those who have to concentrate on 'mere animal survival are barred from the realisation of any of their uniquely human potentials'.<sup>1</sup> Every man is therefore obliged to every other to provide assistance in order that all rational ends may be pursued. Consequently, any local political society must be considered obliged to place at the disposal of international

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1. Murphy, *op.cit.*, p.146.

institutions sufficient resources to enable it to fulfil this fundamental obligation. In the second place, with regard to the rights of its own citizens the state is a trustee accountable to the international community for the common good of a portion of humanity. The manner in which it treats its citizens is not merely a matter of domestic jurisdiction, but is of interest to the whole of humanity since members of a universal contract would wish their ends to be protected against the illegitimate actions of the state to which they belong.

In conclusion, the state deserves the recognition of others as an agent for a particular common good, and it derives rights by virtue of its status of promoting the welfare of a portion of humanity. But the area of the common good is capable of extension and the state must not claim rights which would come into conflict with the duty of its citizens to form part of a universal kingdom of ends. For this reason the state's political rights must be tested by a universal contract in order to ensure that they do not stand as an obstacle in the way of a civil society for the whole of mankind.

Secondly, the universal contract, which tests the legitimacy of the state, must clearly be concerned with the roles and obligations of citizens and statesmen. Now the contract denies the state the liberty of being an autonomous unit in world society and consequently implies the denial of legitimacy to any roles which presuppose that the state can have this status. The universal contract therefore places limitations on the rights and obligations citizens can expect of each other and of those who act for them. Given their obligations to one another, men would have an interest in contracting neither to regard

the welfare of the state as the supreme law nor to authorise particular individuals to act only on its own behalf. And this is necessarily the case given that men are governed by a single structure of obligation.

In the early phase of international relations states are at liberty to use force in order to secure recognition from others of the importance of their ends. In this condition the state is not involved in the pursuit of its interests at all costs but rather in securing consideration for its reasonable ends - a recognition which in turn requires greater international co-operation in order to ground the relations of states on just principles. For this reason the statesman is not entitled to employ 'morally dubious means'<sup>1</sup> to ensure satisfaction of the state's interests and he is not entitled to contrast his role with that of the private person who, unwilling to engage in such 'sacrifices of value', is allegedly obliged to turn his back on politics.

It is not the case that in these early stages one morality exists for the statesman while another morality exists for the private person. This view presupposes what has already been shown to be unacceptable, namely that the state is an autonomous entity. The distinction between the two moralities often extends this idea in the form that while, for example, pacifism may be a reasonable choice for the private person it cannot form part of the morality of the role of the statesman. Here, however, pacifism is judged in terms of its consequences for the state understood as an autonomous entity rather than in terms of its inherent rationality or irrationality. If however pacifism were shown to be inherently irrational then it could not

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1. A phrase used by Weber, *op.cit.*, p.121.

be an adequate position to adopt whether a private person or a public person selected to live by it. Now it has been shown that if it is held to be absolutely evil to take life paradoxes inevitably follow. For, if one man is about to kill another, and if the pacifist can only save the victim through taking the life of the attacker, then no matter what the pacifist does he will infringe his fundamental principle. To defend the victim involves taking life, while not to defend him allows the taking of life which might otherwise be avoided.<sup>1</sup> In addition, not to defend the victim against an unjust attack upon his life involves an infringement of an elementary principle of justice since the pacifist allows the guilty to survive at the cost of the innocent.

It is not the case then that the statesman has a public morality divorced from the morality of private men. Nor is it the case that in the early phase of international relations the statesman would be allowed to act disproportionately. Action in the state of nature need not proceed on morally autonomous lines and, indeed, cannot if any further extension of moral community is to be possible. This principle simply reflects the fact that there is a morality which embraces all rational agents. Now while the content of that morality cannot be exactly similar for different persons with different roles to perform no role-morality can stand unconnected with that morality which embraces all rational agents. Therefore, the specific characteristics of any role-morality must be governed by particular principles which all rational persons could accept. There is, in other words, only one rational morality with highly specific principles for the purposes of its application to detailed roles and circumstances, and

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1. J. Narveson, *Pacifism: A Philosophical Analysis* in R.A. Wasserstrom, *War and Morality*, Belmont California 1970, pp.63-77.

not a morality for private persons which statesmen are at liberty to depart from.

When the sovereign has a duty to the people to secure recognition of its rights to consideration he simply discharges his obligation of protecting the welfare of a particular portion of humanity. But to the extent that the state comes to think that all members of humanity have rights the more necessary is its involvement in co-operating with other communities to develop rules for the conduct of international relations. While all men are governed by a single rational morality it is the particular responsibility of the representatives of states to attempt to formulate precise rules which apply that morality to the stage international relations has reached.<sup>1</sup> Where there is a conflict between the morality of the statesman and the moral ambitions of the private person this arises not through any inherent conflict. It will arise simply on account of the fact that wherever states have unfinished business, wherever their moral community remains imperfect, citizens may come into conflict with their states should they believe progress is slower than it might be. And such tensions will always be likely until men decide that the pace of change or the ultimate condition reached is in harmony with their own moral objectives.

The members of a universal contract are concerned with establishing recognition for principles which will respect them as ends in themselves. The autonomous state is not acceptable to such members

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1. On account of the diversity of political systems and cultures it is perhaps preferable to refer to the stages rather than the stage international relations has reached. Given that international relations are not merely one-dimensional any state which articulates an external point of view will have to formulate highly specific rules and principles in response to the varied nature of its external relations.

since it is not grounded upon principles to which the members of the universal contract could consent. Similarly, the members of a universal contract could not allow 'public persons' the liberty of departing at their will from the morality held to oblige all rational persons. In the first place, to do so would be to allow that the state of nature need not be regulated by certain principles of proportionality prior to a more detailed elaboration of principles for regulating interstate claims. The representatives of states owe an obligation not only to certain minimal principles of morality but to the need for co-operation whereby further rules are established for their relations. The members of a universal contract must require that the representatives of states perform a 'double function', namely protecting the particular good of people while seeking to extend the area of the common good. In this way each person ensures that his ends are taken into account by the remainder of humanity in accordance with rational principles.

It was noted earlier in the discussion of Pufendorf, Vattel and Kant that the principles according to which the state is established are connected to the way in which it will conduct its external relations - the theory of the state implying as it does a theory of international relations. If the state is based upon a contract among potential citizens alone then its external relations can be expected to be conducted with a view to advancing first and foremost the interests of insiders. A universal contract on the other hand confers legitimacy only upon those states which are prepared to discharge obligations indicative of their willingness to be included within a more inclusive moral community. The legitimate state has as a result certain international obligations built into its very nature. And in

particular the legitimate state is one which looks on international co-operation as a fundamental obligation as opposed to an option which states might explore when it seems advantageous to do so. Let us now further examine the nature of the agreements men would make regarding co-operation between them.

Universal contractors are concerned with the development of an international 'kingdom of ends'. Now this idea requires the co-operation of states in order to formulate principles and rules which will bring this condition nearer. The process of formulation and revision is necessarily an ongoing one whereby states establish a more complete set of rules for the purposes of grounding their relationships upon right principles. In addition, it is necessarily a co-operative one since states must acquire the habit of taking the role of each other by a process of consultation and indeed conflict whereby essential ends are asserted, validated or invalidated, and if accepted protected by rules which all are bound to accept. In this phase states conduct a conversation not through a process of action and reaction, or through willingness to acknowledge reciprocal principles, but through a joint 'effort at identification' whereby principles are established for the purposes of treating men as ends in themselves.

This conversation develops mainly through the fact that states are in a position to affect each other's interests. It is necessarily the case that their actions, either intentionally or unintentionally, have an impact on others in many ways. Now the formulation of principles of international relations does not develop in a vacuum, but in response to actual relationships. It is for this reason that Maritain has criticised that theory of international relations which is concerned with the establishment of international government in

abstraction from the actual relations of states. That theory which has as its objective the establishment of powerful international institutions which replace state institutions operates 'artificially'. To think within the parameters of such a theory is 'to contemplate a process developed artificially, and against the grain of nature, resulting in a state without a body politic, or political society of its own, a world brain without a world body; and the World Government would be an absolute Super-state, or a superior state deprived of body politic and merely *superimposed* on and interfering with the life of the particular states - even though it were born of popular election and representation.'<sup>1</sup> It is for this reason alone that world government schemes have an air of unreality and appear so superficial. In their stead Maritain maintains that 'the whole issue is not simply World Government. It is World Political Society'.<sup>2</sup> The domestic state arises not in a vacuum but in the midst of a 'multiplicity' of 'particular societies which proceed from the free initiative of citizens and should be as autonomous as possible': to which Maritain gives the name 'body politic'.<sup>3</sup> Of the domestic state Maritain remarks that it is 'that part of the body politic especially concerned with the maintenance of law, the promotion of the common welfare and public order, and the administration of public affairs. The state is that part which specialises in the interests of the whole'.<sup>4</sup> This idea has already been embodied in an earlier phase of the myth where the state was understood as a response to a particular degree of social development. And far from cancelling earlier associations the state simply requires that they reconsider the principles which

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1. J. Maritain, *Man and the State*, Chicago 1956, p.203.

2. *ibid.*

3. *ibid.*, p.11.

4. *ibid.*, p.12.

have previously governed them before it integrates them within a new type of social order. Similarly, at the international level the objective of theory is not the description of institutions which states are immediately obliged to establish. It is rather to argue that by way of a response to intensified international and transnational relations - designed to promote the ends of men - further institutions of an international nature become both possible and desirable. The objective of bringing into existence an international kingdom of ends is necessary in order that men can fulfil their obligations to the remainder of mankind. And in seeking to translate this idea into practice states establish among themselves a body politic which in turn will produce the need for the strengthening of their international institutions.

As was noted earlier the emergence of a kingdom of ends requires that states are prepared to assist each other's populations escape the sole search for 'mere animal survival' in order to promote a greater range of human ends. Now while this objective may be carried out most efficiently by separate states acting on a unilateral basis there are still important reasons why such a task should be shared with international institutions. To assign such a task to international institutions is not merely to concede that there are areas of political action which can be better managed by international institutions - a view which takes only an instrumental approach to international cooperation and the role of such institutions in international society - but to express the fact that there are fundamental international obligations owed between all men. The fact that men recognise these obligations as important becomes convincing where they establish institutions with the specific function of discharging them. The importance

of these obligations does not receive the same endorsement where the responsibility for their discharge remains solely in the hands of associations traditionally concerned with the advancement of a particular common good. In addition, it is necessary that institutional arrangements should arise in the wake of international transactions - which the functionalists have argued so forcefully - so that the interests of peoples receive fair consideration. In particular here the establishment of judicial agencies with compulsory jurisdiction is one of the mechanisms by which states can both discharge international obligations through discovering the rules which should govern them and introduce new rules which further extend the community between them.

## II

The preceding sections which have discussed the three aspects of the internal and the external points of view from the perspective of a Kantian ethic conclude the major part of the analysis of this thesis. It has been argued that the major tension at the heart of the modern state may be reconciled by such an ethic in conjunction with a historical myth in favour of obligations to humanity. The state then is understood as an agency which protects the common good of moral equals and which has in addition the obligation of continuing the process of enlarging the moral community through working for a more inclusive moral community at the level of international relations. Given this argument it is essential to say that a separate political association, which claims absolute sovereignty against the rest of mankind, is illegitimate if understood to be anything other than a temporary

phase whereby lesser associations are incorporated within the state itself. For the validity of the state, so it has been argued, depends on certain external criteria of legitimacy which include ideas about the nature of the association, the roles of private and public persons and the approach to international co-operation. Any state which does not satisfy these criteria cannot be regarded as legitimate since its underlying principles - the maxims upon which it is grounded - cannot be chosen by the members of a universal contract concerned with gaining satisfaction for the idea that men are to be treated as ends in themselves. And this, it is alleged, is not only an idea for the evaluation of right conduct in international relations; it is a condition which states are obliged to bring into existence.

This last remark requires some final observations about the place of political philosophy in the theory of international relations. It is not the role of political philosophy to attempt to establish highly detailed principles for the regulation of international relations. This is not on account of the fact that political philosophy should avoid more detailed normative dimensions of international relations, but because the development of detailed principles belongs to a quite different enterprise. It is impossible to proceed to deduce a set of highly specific principles which states should recognise without considerable attention to the empirical nature of the circumstances in which they find themselves. Political philosophy can only establish some of the more general principles which have a place in international conduct. It is involved, as one writer has put it, with developing a strategy composed of concepts and principles which have some necessary foundation - in the case of this thesis a necessary foundation by virtue of their rationality. But it is not the

business of political philosophy to develop the tactics which need to be followed to bring these objectives into existence.<sup>1</sup> Naturally, political philosophy is involved in critically assessing the tactics that states might employ in the context of the overall strategy, although as we have seen this is not a task it can accomplish alone. Within the parameters of this thesis this strategy has been involved with the principles underlying two points of view which have been analysed and evaluated in abstraction from their place in the modern state. The strategy has involved a process of argumentation about these principles both through the study of their role in the thoughts of earlier theorists of international law and international relations, and from the vantage point of a moral philosophy and a myth which have attempted to establish some priority among these various principles. This method of analysis is to be judged then solely in relation to the articulation of a strategy for the elaboration of more detail requires political philosophy to work in conjunction with the empirical approaches to international relations.

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1. P.P. Nicholson, 'Political Philosophy and Political Action', *Political Studies*, 1973, pp. 467-480.

APPENDIX I.Some Further Notes on the Development  
of International Relations Theory.

By way of a brief conclusion let us now consider some issues which have not received any attention in this thesis but which are germane to any fuller discussion. These issues can be divided into two groups, the first of which concerns the point made at the end of the last section, namely the way in which political philosophy can combine with empirical approaches to international relations in order to give a fuller account of the rules which states might follow, the second of which concerns issues which are more closely related to the philosophical arguments in this thesis. Let us consider the first group of issues.

There appear to be two areas for further analysis, areas which, without comprising political philosophy itself, may work with it in order to offer more detailed prescriptive international relations theory. In the first place, it would be enormously useful to have detailed studies of the applications of moral and political philosophy to particular case-studies. It is true that such studies do exist although the tendency has been for a concentration upon issues arising in the conduct of war. To this there might be added further studies which focussed upon international disputes, attempts at co-operation and so forth. Such studies would involve initial claims about moral principles, but they would require considerable empirical understanding of some international transaction or event in order to produce reasonable conclusions about the principles that might be or have been

followed. Such understanding would be important not only by way of applying moral principles directly to political facts, but by way of clarifying what is possible for states in the circumstances which face them. Furthermore, these studies would not only assist the development of general principles and their application to particular circumstances. An opposite flow could take place whereby reflection upon more particular issues could assist the development of more general international relations theory.

In the second place, and also involving empirical knowledge, there is the need for more detailed consideration of the role of international institutions. What kinds of international institution and based upon what kinds of principle could best serve the development of a more inclusive international community? What areas of international life might they seek to regulate? A more normative approach to international institutions would have the effect of clarifying the types of economic, political and legal institutions which might contribute to the development of an international 'kingdom of ends'. And this in turn would assist the understanding of the kinds of institution which would in the middle-term provide reasonable objectives.

To turn to the second group of questions: it is true that the arguments in this thesis are based ultimately on modes of analysis and concepts which are predominantly Western in their origins. Indeed, many of them - individualism, rights and autonomy for example - belong to that group of concepts which characterise the modern social outlook. If this is so, it is necessary to ask how far a theory based upon such concepts could go in constructing a strategy for the whole of international relations rather than for that part of them which are

Western or Western-influenced. It has been an important part of at least one author's work to indicate that Western approaches to law are, as an example, substantially different from the approaches found in other civilisations.<sup>1</sup> There are certainly two things to consider and one thing to do. In the first place, it might be possible to argue that Western concepts of man, morality and politics are substantially correct and that alternatives are therefore substantially incorrect. However, to proceed in this way is to eliminate one possible area of inquiry which is that of exploring the possibility that other cultures and civilisations may share the experience contained in Western thought although they may choose to represent it in alternative ways. With this in mind, it would be interesting to know how far, for example, the division between obligations to mankind and obligations to fellow-citizens or fellow-members is represented in one form or another in the theory and practice of other civilisations.

Quite apart from this inquiry lie a number of questions concerned with issues raised in the myth in this thesis. It was asserted that the myth sought merely to plot different societies on a scale using a Kantian ethic and considering the ways in which such societies chose to think of insiders and outsiders. Now the idea of so charting the social world is not a new one although in most versions it occupies a place within a philosophy of history. According to the latter perspective the point of charting the social world is not merely to distinguish between societies for its own sake. Its function is part of a larger method of inquiry which is concerned with patterns or meaning in history. For such an approach the distinguishing of stages

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1. A.D. Bozeman, *The Future of Law in a Multicultural World*, Princeton 1971.

is a prelude to attempting to show how one stage is inferior to the others and why it must give way to a higher and more complete stage. The different stages are then not unrelated but indeed bound together by constituting an actual process of history whereby one stage gives way of necessity to successively higher stages. Now the myth in this thesis has not been so ambitious as to claim to represent a philosophy of history. It has sought rather to chart a mythical development of the concept of autonomy as applied to the external relations of separate societies. In addition, it is clear that the move from the first to the second phase of the myth was purely contingent on account of the fact that one group happened to require the assistance of another. But it has been argued that the remaining phases of the myth are connected so as to constitute a kind of necessary development. It is not implausible however to wonder if this claim could be advanced - namely that these stages are not isolated from their historical context in order to be assigned a place in a hierarchy established within a particular moral and political philosophy, but that the stages are themselves necessarily connected in history itself. However, the issues involved in attempting to discuss this more fully certainly lie outside the scope of the present analysis.

APPENDIX II.

John Rawls and the Theory  
of  
International Relations.

The idea of a universal contract grounded upon Kantian principles raises the question of the relationship of the method of this thesis to the method of John Rawls.<sup>1</sup> For Rawls employs social contract theory in a manner clearly related to Kant. Rawls maintains that 'one does not take men's propensities and inclinations as given, whatever they are, and then seek the best way to fulfil them. Rather their desires and aspirations are restricted from the outset by the principles of justice which specify the boundaries that men's systems of ends must respect'.<sup>2</sup> This view is typical of the Kantian element in Rawls' work. It is also, as we have seen, of considerable importance in the argument of this thesis against the reasoning and conclusions found in Pufendorf and Vattel. Rawls also maintains that 'once a morality of principle is accepted, however, moral attitudes are no longer connected solely with the well-being and approval of particular individuals and groups, but are chosen by a conception of right chosen irrespective of these contingencies'.<sup>3</sup> Once again, this suggests an idea that has played a prominent part in this thesis, namely the idea of moral freedom or autonomy as understood by Kant. Now if these similarities occur it is necessary to provide some account

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1. J. Rawls, *A Theory of Justice*, Harvard 1971.

2. *ibid.*, p.31.

3. *ibid.*, p.475.

of the reasons why this thesis has not simply drawn upon Rawls' approach to the social contract, seeking to extend it to produce rational principles of international relations. No doubt every student of political theory must now address himself to Rawls but this obligation is especially required of anyone prepared to adopt a contractarian theory which like Rawls' draws so much from Kant.

Rawls' political theory, like so many before it, relegates the international dimension of political life to a lesser place. Although Rawls does not wish to exclude international relations altogether, it is not without interest that he should believe the theory of the state can be decided in advance of any theory of international relations. Rawls therefore confines his veil of ignorance and social contract to the members of a particular community. Of this decision, Brian Barry has written: 'The odd thing about Rawls' treatment of the question how a particular community is to be defined for the purpose of the theory of justice is that he does not discuss it ... Rawls, by making it clear that as far as he is concerned the community already exists and its members have merely forgotten their place within it, may believe that he can dodge the question how the community is to be defined. But it seems to me that this is an arbitrary move that cannot be defended within the theory'.<sup>1</sup> The first reason for rejecting Rawls' social contract is that it takes the separate, sovereign state as given. And this, as we have seen, is precisely what is under contention in the theory of international relations.

Given Rawls' method, which is to begin with the theory of the state and then to proceed to the theory of international relations,

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1. B. Barry, *The Liberal Theory of Justice*, Oxford 1973, pp. 128-129.

his conclusions are not surprising. For if the separate state is assumed to be a legitimate mode of association then the theory of international relations is concerned with the elaboration of principles which are designed to place the seal of approval upon this status. Rawls maintains that representatives from different nations 'choose together the fundamental principles to adjudicate conflicting claims among states' behind a veil of ignorance. Their conclusions, which Rawls himself declares contain 'no surprises', are that there ought to be a principle of the equal liberty of states and the right of self-determination, the duty of non-intervention in the internal affairs of others, the right to form defensive alliances, and, finally, the principle that agreements ought to be kept.<sup>1</sup> Commenting on this list, Barry writes: 'first, Rawls does not and cannot defend the assumption that principles will be chosen in the original position by *men as members of pre-existing societies rather than by men as men who may wish to form sovereign states or may wish to set up an overriding universal state*. Second, even on Rawls' own account of the way in which principles governing the relations between states would be chosen in the original position, his minimal liberal principles of non-interference and non-aggression are no more than a fraction of what would be agreed upon, if indeed they would not be superseded altogether by agreement on an effective system of collective security'. (my emphasis)<sup>2</sup> D.A.J. Richards argues for a principle of intervention in order to protect the rights of citizens infringed by the state, a principle which goes some way towards recognising that there may be

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1. Rawls, *op.cit.*, pp. 378-379.

2. Barry, *op.cit.*, p.133.

international obligations which override the sovereignty of the particular state.<sup>1</sup> But this is still rather limited and does not appear to be accompanied by any radical challenge to the division of humanity into separate, sovereign states. Neither Rawls nor Richards cares to argue for international legal institutions or powerful institutions for the taking of decisions in areas where states are interdependent. A second reason for rejecting Rawls' approach is that by beginning with the state, as he does, the theory is unable to derive far-reaching international obligations. And, indeed, if Rawls is concerned with political institutions which respect the rights of men as men and preserve their autonomy something rather more adventurous would be required than the list of principles mentioned above.

It must be said in defence of Rawls that he is concerned with institutions and principles which can operate. For this reason his contractors are armed with a knowledge of social psychology, economics and so forth so that the institutions they select will be ones which ordinary human beings can operate successfully. It is possible then that Rawls does not believe men capable of accepting international institutions radically different from the rather limited ones they already possess. This is not an unreasonable position, but it would require argument in its defence especially if the contractors do not know 'the level of culture and civilisation' their society has been able 'to achieve'.

Furthermore, an elaboration of Rawls' principles for the right

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1. *A Theory of Reasons for Action*, Oxford 1971, p.138: " it is perfectly natural that the contractors may approve the destruction of a certain nation, if it severely frustrates the interests of its populace."
  2. Rawls, *op.cit.*, p.137.

ordering of a domestic society suggests that with suitable assumptions his theory could derive more radical conclusions about the right relationships between states. For example, men would accept, according to Rawls, a minimum standard of living below which no man should fall. If therefore, the contract was applied to the whole of humanity rather than merely to the members of an already existing society it might be used to argue for a substantial redistribution of the world's resources - if, that is, Rawls is correct in his belief that rational men would decide upon an economic floor beneath which no person should fall.

There may be, in other words, resources which Rawls has not fully used, and which might give rise to additional (and even different) conclusions were Rawls' contract applied first of all to the whole of humanity. Nevertheless, there are other doubts about Rawls' approach which lead this reader to depart from his method. Although, as we have seen, Rawls employs the language of Kant, his theory can hardly be regarded as fully Kantian.<sup>1</sup> For Rawls wishes to introduce other assumptions which are drawn from a different tradition of moral and political thought. In particular, Rawls' contractors are to act from self-interest without any knowledge of the good, as he calls it, but with the thought in mind that their future place in society might be assigned to them by their worst enemies. The introduction of these assumptions leads Rawls' theory to become a curious blend of Kantian and Hobbesian ideas. It is not at all clear why Rawls should wish to

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1. A point made by N. Daniels (ed.), *Reading Rawls*, Oxford 1975, p.4. Daniels points out that Rawls' contractors choose their imperatives in the knowledge that there are certain 'primary goods' which each man would want irrespective of his other goals, and this entails that their imperatives are merely hypothetical rather than categorical.

introduce Hobbesian ideas. Is it not possible to derive the principles of a just society from Kantian moral philosophy alone? Whatever the answer to this might be, Rawls' blend of Kantian and Hobbesian ideas can lead to problems which would have been avoided had Rawls decided to work within only one of the two traditions to which these ideas belong. For example, it is not perfectly clear if the decision to establish some minimum standard within a society is arrived at through the desire that other men's ends be regarded as equal to one's own or through the fear that once the veil of ignorance is lifted one might discover that one belonged to one of the less privileged groups in society. And these uncertainties arise simply through Rawls' desire to include both Kantian and Hobbesian ideas in his theory.

For this reason, the decision simply to apply Rawls' contract to the whole of humanity rather than to the members of a separate community does not hold the answer to the question of what are the right principles for the organisation of international society. In the method employed in this thesis the contract certainly operates at the universal level, but it operates with Kantian assumptions alone. For while Rawls' contract is applied on too narrow a basis, the assumptions upon which it is based appear too broad.

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