

THE LAW OF POWER POLITICS

FRANCIS A BOYLE

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I INTRODUCTION

A Political Realism

A cardinal tenet of the realist or power politics school of international political science is that international law and international or

organizations are irrelevant to conflict between states over matters of vital national interest.¹ These are said to comprise those issues of high international politics concerning the very survival of nation states and the human race itself. Considerations of international law do not and should not intrude into such areas or if so it should only be to the extent that they serve as a source for the manufacture of *ad hoc* or *ex post facto* justification for decisions taken on the basis of antinomial factors such as power politics and national interest. In the realist view of international relations international law is devoid of any intrinsic significance within the utilitarian calculus of international political decisionmaking. International law morality ethics ideology and even knowledge are mere components in the power equation,² devoid of non instrumental significance or prescriptive worth and subject to compulsory service as tools of power when deemed necessary for the vital interests of a state. There are no barriers to the acquisitive nature of the nation state beyond its inherent limitations and constraints imposed by the international political milieu. Consequently the analysis of international relations must concentrate exclusively upon the dynamics of power politics.

The reasons for this realist perception of international law are more the product of metaphysical speculation than solid empirical research. The nations of the world precariously survive in the Hobbesist state of nature where life is solitary poor nasty brutish and short.³ Here there exists no law or justice no conception of right or wrong no morality but only a struggle for survival in a state of war by every state against every state. The acquisition of power and aggrandizement at the expense of other states in a quest for unattainable absolute national security is the fundamental right the fundamental law and the fundamental fact of international politics. Sheer physical survival in a Machiavellian world of power politics *raison d'etat* totalitarianism and nuclear weapons must be the litmus test for the validity of man's political philosophical moral and legal presuppositions. International law therefore becomes irrelevant to those matters which count for any thing in international relations. And international law will not become relevant to international politics in the foreseeable or even distant future.

Statesmen who disobey the iron law⁴ of power politics at the behest of international law invite destruction at the hands of aggressors and thereby facilitate the destruction of third parties which in today's

1 See Boyle, *The Irrelevance of International Law: The Schism Between International Law and International Politics*, 10 CAL. W. INT'L L.J. 193 (1980) [hereinafter cited as *Irrelevance*].

2 See generally H. MORGENTHAU, *Politics Among Nations* 4-15 (5th ed. 1973).

3 T. HOBBS, *LEVIATHON* 100 (M. Oakeshott ed. 1962) [hereinafter cited as *Hobbes*].

4 See e.g. H. MORGENTHAU, *IN DEFENSE OF THE NATIONAL INTEREST* 144 (1951). From that iron law of international politics that legal obligations must yield to the national interest, no nation has ever been completely immune.

interdependent world cannot realistically hope to remain neutral in a serious conflict between major powers. For historically whenever statesmen have in good faith interjected determinative considerations of international law into attempted solutions for the monumental problems of international politics the probability that violence war defeat death and destruction would ensue was magnitudinally increased. The primary case in point was President Woodrow Wilson's approach to international affairs after the First World War.

B Legalism—Moralism

On 8 January 1918 President Wilson delivered an address to a joint session of Congress in which he set out the war aims and peace terms of the United States government for the Great War.⁵ This was the speech that contained the fabled Fourteen Points the last of which laid the cornerstone for the League of Nations the ill fated predecessor of the United Nations. In that speech Wilson emphatically decreed the death of power politics and all its essential accouterments for the post war world: the balance of power secret diplomacy trade barriers armament races denial of self determination. This outmoded and dangerous principle of international relations had eventuated in such cataclysmic consequences that it had to be replaced completely by an essentially different system based upon antithetical operational dynamics international organizations and law collective security open diplomacy free trade freedom of the seas arms reduction disarmament and national self determination. A new era of world history was to dawn with the League of Nations and the old world of power politics was to be left behind as an evolutionary stage of barbarism in the human condition to which like Rousseau's state of nature⁶ mankind would never revert.

Unfortunately the world of power politics returned two decades later and the realists laid the blame for the Second World War on the doorstep of Wilson and those Western statesmen who adopted his legalist moralist approach to the conduct of international relations during the interwar period.⁷ They had all neglected condemned and repudiated the techniques of power politics in favor of an anti power politics approach to international relations. Instead the exact opposite should have been done. For the Treaty of Versailles⁸ and especially its first part, the Covenant of the League of Nations were not really the perfect incarnations of truth justice peace and righteousness as they

were said to be by the leaders of the Allied and Associated Powers. These were mere instrumentalities of power politics designed by the victorious nations of the First World War to secure and perpetuate with the maximum possible degree of legal and institutional coercion the favorable political economic and military status quo post the armistices ending the Great War. This Treaty was imposed *vi et armis* in contravention of express promises given to induce surrender. If the peoples of the world believed anything else they had been sorely deluded by the ideological rhetoric deceptively manipulated by their leaders to fan the flames of patriotic fervor in order to hasten the prosecution of the war to its successful conclusion.

If the victors of Versailles intended to keep their ill gotten gains they had to be willing to employ military force against a revanchist Germany whenever the latter attempted to resist the terms of the so called peace. But the Western democracies lacked the Nietzschean will to power. Instead of fighting to preserve their hegemony they preferred to trust in their own illusions.

They put their faith into such meaningless pronouncements as Wilson's Fourteen Points the Kellogg Briand Pact⁹ and its corollary the Stimson Doctrine¹⁰ into the ineffectual organs of the League of Nations—the Council the Assembly and the Permanent Court of International Justice into vapid and useless legalist moralist doctrines such as neutrality disarmament arbitration into the codification of international law and the formulation of a definition of aggression. Perhaps most egregiously of all they actually believed in the existence of a beneficent world public opinion that would will the world on its path towards peace.

If Western statesmen had been attentive to the historical imperatives of power politics and not seduced by the chimerical allurements of international law the Second World War might never have happened or else it would have occurred in the middle 1930s when the devastation could have been minor in comparison to that which it was in actuality. They could have fought the war on their own terms and at the time of their own choice not those of their natural adversaries. The Western democracies had only themselves to blame for the Second World War.

C The Philosophy of Power Politics

Elsewhere this author has demonstrated on the basis of empirical research that international law and international organizations are in deed relevant if not crucial to conflict between states over matters of

⁵ See President Wilson's State Papers and Addresses 464-72 (A. Shaw ed 1918).

⁶ See pp 949-956 *infra*.

⁷ See E. CARR, *THE TWENTY YEARS CRISIS* 1919-1939 at 22-40 (2d ed 1946).

⁸ Treaty of Versailles, June 28 1919 reprinted in 13 AM J INT'L L. 151 (Supp 1919). See

also Treaty of Peace Between the United States and Germany Aug 25 1921 42 Stat 1939 T S No 658 12 L N T S 192.

⁹ Kellogg Briand Pact, Aug 27 1928 46 Stat 2343 T S No 796 94 L N T S 57 reprinted in 1928 (1) FOREIGN RELATIONS OF THE UNITED STATES 153.

¹⁰ Reprinted in DEPT OF STATE, PRESS RELEASES 41 (Jan 7 1932).

vital national interest and more importantly in what manners and for what reasons this is so.¹¹ That study shall stand as the first step in a thorough refutation of the realist hypothesis that international law is irrelevant to high international politics. Before progressing any farther in that direction however it is necessary to backtrack somewhat in order to describe precisely what a modern theory of power politics consists of and from where it is derived. One must understand a theory in its totality before one can come to grips with it. If power politics formed a private gospel of ultra pragmatic action doctrine for states men of the world that had to be eradicated from the practice of international relations in the post Versailles era there must have been something quite definite about the constituent elements of this theory. Therefore in order to comprehend the birth and maturation of the so called legalist moralist approach to international relations it becomes essential to describe in full the nature and dimensions of the philosophy of power politics that legalism moralism struggled against and was intended to supplant. A paradigmatic thesis (*et* power politics) will determine the characteristics of its paradigmatic antithesis (*et* legalism moralism).

Likewise if it was the congenitally misconceived nature of this Wilsonian endeavor that was to some extent responsible for the Second World War as the modern political realists assert they too must have already possessed some well formed preconceptions about the interrelationships among power politics and law when they set out to formulate an alternative theory of international relations based upon the principle of power politics. Modern theorists of power politics did not write upon a *tabula rasa* but instead drew upon a rich conceptual heritage established for them by several illustrious forerunners in Western philosophical thought specifically Thucydides Machiavelli and Hobbes. This essay will trace the intellectual history of power politics as a theory in Western political philosophy. Its primary emphasis will be upon the theories of power politics prevalent in Western thought at the time Woodrow Wilson castigated them and thus prior to when the modern political realists turned their thoughts to this subject around the time of the Second World War. Through examination of a theory of power politics within the context of its historical circumstances and philosophical development it will be possible to accomplish a trifold objective (1) to better understand the modern political realists negative attitude towards international law and international organizations (2) to place into perspective its antithesis the legalist moralist approach to international affairs and therefore (3) to shed some additional light upon the dilemma of the relevance or irrelevance of international law to international politics. Public international lawyers

know or think they know generally what international law is all about. But if they do not fully comprehend its diametric opposite—a theory of power politics—their knowledge of international law is substantially incomplete.

II THUCYDIDES

The expatriate Athenian general Thucydides was the first scientific historian known to Western Civilization.¹² Thucydides unrivaled reputation in this field was secured for eternity by his sole work, the classic history of the Peloponnesian War.¹³ Drawing upon the sophistic tradition in which he was schooled,¹⁴ Thucydides proceeded systematically to develop within the pages of *The Peloponnesian War* the first fully mature theory of power politics found in Western's philosophical thought. Stated succinctly Thucydides basic thesis of power politics was that all political action consists of an attempt by historical actors to effectuate their self interests through exploitation of the degree of power they possess at the expense of but correspondingly as limited by the self interests and relative power of other actors. This clash of interest and power created a precarious balance of power among the participants in which each actor's physical survival was constantly at stake. Politics was the quintessential zero sum game for Thucydides.¹⁶

Since there were two basic types of political actors when Thucydides wrote (*et* city states and human beings) this general principle was reducible to two specific corollaries: (1) politics among city states is an effectuation of their own interests based upon consideration of their respective powers and (2) politics among individuals within a city state is an effectuation of their own interests based upon consideration of their respective powers. Thucydides applied his axiomatic principle of power politics to both domestic and foreign politics because in his opinion power politics embraced the entire spectrum of political action. The principles of power politics characterized the operational dynamics of all three levels of analysis differentiated by modern

12 Thucydides dates were c 460-c 400 B C. Herodotus (484?-425? B C.) had preceded Thucydides into the field of narrative history with his account of the Persian Wars. See HERODOTUS THE HISTORIES (Penguin Classics ed. 1972). Yet Thucydides indirectly criticized Herodotus for exhibiting a marked tendency towards exaggeration of the truth and reckless disregard for its accuracy. Herodotus had not freed himself from the bonds of Homeric epic poetry which was antithetical to scientific historical analysis. See THE COMPLETE WRITINGS OF THUCYDIDES THE PELOPONNESIAN WAR 13 15 (Modern Library College ed. 1951) [hereinafter cited as THUCYDIDES].

13 *Supra* note 12.

14 THUCYDIDES *supra* note 12 at xi xii.

15 The classical Chinese theory of power politics can be found in THE BOOK OF LORD SHANG (J. Kuyvendak trans. 1928). The classical Indian theory of power politics is expounded in the Arthashastra (7th ed. R. Shamassstry trans. 1961).

16 In a zero sum game any player's gains are exactly balanced by the losses of others. 6 INTERNATIONAL ENCYCLOPEDIA OF THE SOCIAL SCIENCES 62-69 (1968).

11 Boyle, *International Law in Time of Crisis: From the Entebbe Raid to the Hostages Convention* 75 NW U L Rev 769 (1980) [hereinafter cited as *Entebbe*].

international political science man the state and the system.¹⁷ For Thucydides power politics was one of those eternal and universal laws of history that ruled the totality of politics and those who ignored its dictates were fated to suffer grievous consequences.

A The System. *Foreign Affairs*

The first corollary to the main thesis of power politics dealt with the nature of relationships between city states

1 *Epidamnus*

The real cause of the Peloponnesian war stated Thucydides was the growth of the power of Athens and the alarm which this inspired in Lacedaemon.¹⁸ Among the material causes for the war however the first Thucydides cited was the civil strife at Epidamnus a colony of Corcyra which in turn was a colony of Corinth. The Corcyraeans rebuffed an Epidamnian plea for military assistance so the latter decided to surrender the colony to the protection of Corinth. The Corinthians rejected a Corcyraean proposal to submit their dispute over possession of Epidamnus to arbitration and war was declared. Corcyra sent a delegation to Athens in order to secure an alliance against Corinth while the latter sent its own delegation to prevent such a development.

Speaking before the Athenian assembly the Corcyraean envoys invoked Athenian interest as the principal factor that should be weighed in determination of their request for an alliance.¹⁹ Corcyra then proceeded to adduce three specific reasons in support of an alliance. First came the moral satisfaction flowing from assistance to a neighbor who was an inoffensive victim of another's injustice. Second was the winning of Corcyra's undying gratitude. The third reason was more tangible in nature. [Y]ourselves excepted we are the greatest naval power in Hellas.²⁰ The first two arguments based on considerations of justice and sentiment were shunted aside in preference to that of military interest. The Corcyraeans tried to close the deal by elaboration upon this third and crucial point.²¹

Thucydides counterposed the Corcyraean power/interest argument to that of the Corinthians who maintained that considerations of justice must be treated as paramount. Abstention from all injustice to other first rate powers is a greater tower of strength than anything that

17 On the level-of analysis problem in international political science see K. WALTZ, MAN THE STATE AND WAR (1959); Singer, *The Level of Analysis Problem in International Relations in THE INTERNATIONAL SYSTEM 77* (K. Knott & S. Verba eds 1961); A. Wolfers, *The Actors in International Politics in DISCORD AND COLLABORATION 3* (1965).

18 THUCYDIDES *supra* note 12, at 15.

19 *Id.* at 20.

20 *Id.* at 21.

21 *Id.* at 24.

can be gained by the sacrifice of permanent tranquility for an apparent temporary advantage.²² Hellenic customary law gave Corinth the right to punish its colony Corcyra as it saw fit. This was a principle Corinth once successfully defended on behalf of Athens before the tribunal of Peloponnesian city states in order to justify Athens' retaliation against Samos. Corinth now argued that justice demanded Athenian reciprocity in this case.

In this passage Thucydides also introduced a theme expanded upon at length in the Melian conference in foreign affairs. Justice depends upon the existence of an approximately equivalent relative power distribution between city states. Justice is not an abstract and transcendental phenomenon but instead is both a function and a product of power relationships. At least in foreign affairs justice is devoid of independent significance in its own right. Considerations of justice can only have meaning and purpose when two equally powerful city states seek to avoid a mutually destructive war by resolving their dispute in a peaceful manner. In the absence of such equality the test of arms will determine upon which side justice lies. In the case of Epidamnus military expedience prevailed over justice and the Athenians chose to enter a defensive alliance with Corcyra.²³

2 *Mitylene*

Thucydides explored this antithesis in foreign affairs between justice and power politics once again in the Mitylenian debate between Cleon and Diodotus. Cleon advocated strict adherence to an original decision taken by the Athenian assembly to slay the entire population of Mitylene even though the oligarchs were primarily responsible for a rebellion.²⁴ Although Cleon maligned the sophists for their use of delusory rhetoric he proved himself not beyond such specious performance by arguing that both expedience and justice would be served by extinction of the Mitylenians.²⁵ Cleon imparted a morally destitute meaning to the idea of justice by defining this term in its most primitive form—vengeance. The Mitylenian revolt must be avenged by Athens. Justice as vengeance is the elemental force that must compel such a barbarous course of conduct in Mitylene.

Diodotus rose to refute Cleon. He chastized the latter for casting aspersions upon the patriotism of those who counselled further deliberation on the Mitylenian affair and cautioned the assembly against the type of impassioned decision favored by Cleon.²⁶ This style of political decisionmaking prevents a rational calculation of interest based

22 *Id.* at 27.

23 *Id.* at 28.

24 *Id.* at 166.

25 *Id.* at 167.

26 *Id.* at 168.

upon considerations of power which must be the foundation for any political action.²⁷ Diodotus understood the term justice in the sense of right and not simply vengeance. Yet even justice as righteousness (and *a fortiori* justice as vengeance) must not displace power politics as the *ratio decidendi* in foreign affairs.

In this passage Thucydides drew a radical dichotomy between justice and politics. They are said to comprise two different worlds where the operational rules are fundamentally different if not usually antithetically opposed.²⁸ Since justice can only matter where power is equally distributed a vast domain of foreign affairs is by definition unregulated anyway except by considerations of pure power politics. Law and guilt or innocence are irrelevant factors in foreign policy decisionmaking. Politics cannot be judged by justice but only by history not in terms of righteousness but rather by success or failure. The complexities of historical action are neatly bifurcated and compartmentalized into the is of politics and power and the ought to be of justice law and morality. Foreign affairs should be treated as an amoral world even if in fact traditional conceptions of morality might consider such treatment to be immoral in the first place.

The Athenian assembly followed Diodotus' counsel of power politics at the expense of justice. It spared the Mitylenian commoners executed only those directly involved in the revolt and reduced Lesbos to colonization and economic exploitation. In this instance power politics called for a result far less heinous than the requirements of justice. Yet once the subordination of justice to power politics in foreign affairs is established, humaneness becomes only an incidental consideration that is to be ignored at will. This theme will be developed to its logical and most horrendous conclusion in Machiavelli's *The Prince*.

3 *Melos*

The apotheosis of Thucydides' argument for the existence of an irreconcilable antithesis between justice and power politics in foreign affairs can be found in the dialogue at the Melian conference. The Athenian delegates proposed that the context of surrender negotiations be confined solely to rational calculations of interest based upon considerations of relative power.²⁹ Justice as righteousness must be excluded from consideration since in foreign affairs this factor is

27 *Id.* at 169.

28 *Id.* at 171.

29 "For ourselves, we shall not trouble you with specious pretences—either of how we have a right to our empire because we overthrew the Medes or are now attacking you because of wrong that you have done us—and make a long speech which would not be believed, and in return we hope that you, instead of thinking to influence us by saying that you did not join the Lacedaemonians, although their colonists or that you have done us no wrong, will aim at what is feasible, holding in view the real sentiments of us both since you know as well as we do that right as the world goes is only in question between equals in power, while the strong do what they can and the weak suffer what they must." *Id.* at 331 (emphasis added).

irrelevant in a situation of unequal power distribution where survival is at stake. Without life itself this intangible value is meaningless.

The Athenians rejected a Melian offer of neutrality as incompatible with their imperial destiny and argued that the Melians must accept the hopelessness of their military position and surrender to become Athens' tributary vassal. The Melians refused to accept their suggested terms of discussion and consequent demand for surrender. If the negotiations proceeded solely along the lines of interest/power factors the Athenians would undoubtedly win the argument because of the logical superiority of their army. Athens would triumph without having to test its forces in the crucible of battle.

The Melians sought to elevate the level of negotiations above the base plan of power politics. They offered four reasons in support of their refusal to surrender and offer of neutrality: justice, the uncertainties of war, the gods, and their alliance with Sparta. The Athenians had already disposed of justice. Hope in the fortunes of war turning in the Melians' favor was too evanescent to be rational. Divine assistance is a supposition of faith, power a reality of politics. Both gods and men live by the law of power politics.³⁰

As for the Spartan alliance, the Athenians effectively discounted it through their observation that the Lacedaemonians were superb realists themselves and would fight to protect an ally only when they deemed intervention to be in their own interest, requiring a strong likelihood of victory based upon a favorable superiority of power.³¹ Melos could expect no aid from Sparta in these circumstances. She must act on her own cognizance and surrender to Athens for her own good.

Of their own accord the Athenians raised and answered one further possible source for objection to surrender by Melos—disgrace.³² Honor was at the very root of Homeric Greek society founded upon the ethos of shame. Yet it too must fall before the brutal logic of Thucydides' theory of power politics. Epic heroes such as Hector and Achilles had become an anachronism, collective heroism a fatal liability. A pure theory of power politics must deem honor to be inconsequential for calculations of power and interest in foreign policy decisionmaking. On this point modern political realists depart from Thucydides when they attribute some independent significance to consideration of the honor or its variant, the prestige of a state in international relations. In an era when honor and shame counted for far more in the estimation of man than they have at any other time in the history of Western civilization, Thucydides rejected this notion as a dire threat to survival.

Moreover, implicit in Thucydides' analysis was a recognition that honor and justice have little in common. It might be honorable to act

30 *Id.* at 334.

31 *Id.*

32 *Id.* at 335.

justly but it is not necessarily just to act honorably. To use the ration ale of honor in an effort to vindicate a decision as just is dangerous. And while it might be possible for considerations of power politics justice and honor to support a particular decision, the coincidence of all three factors is highly unlikely. When they fail to intersect in foreign policy decisionmaking, Thucydides contended that power politics must take precedence.

Unfortunately the Melians never accepted the inexorability of the Athenian logic. They preferred to trust in their own illusions of justice and fortune, the gods, and the Spartans. Consequently Melos was invested and taken by treachery. The Melians were exterminated by death or slavery and Athenian settlers took their place. Thucydides demonstrated how their intransigent faith in utopian or ephemeral notions of preference to acting in congruence with the demands of power politics manifested in a rational calculation of self interest and relative power led to the utter destruction of the Melians as a people and as a political entity. That lesson is clearcut for all history to ponder.

4 *Rationality and Free Will in History*

In the speeches on Epidamnus, Mitylene, and Melos, Thucydides demonstrated that the foreign affairs corollary to his main thesis of power politics was both descriptive and prescriptive by nature. Power politics is a universal and eternal law of history. It describes the course of interaction among city states and therefore prescribes the type of behavior which one city state must exhibit towards all others to ensure continued survival. The historical imperative of power politics arises from the fact that foreign affairs is characterized by a state of constant warfare or a truce or armistice, the primary purpose of which is to prepare for renewed warfare. There is no peace, only a set of shifting alliances constituting temporary balances of power in which conflict between subjugation by and elumination of the respective actors is the main rule of the game.

Fortunately man is rational and intelligent enough to comprehend the dynamics of power politics by an exercise of his own reason through application of scientific historical analysis. Political man must act in accordance with his necessarily imperfect judgment of the extent to which his own interest can be fulfilled at the expense of others upon the basis of a non-sentimental assessment of their comparative power. Man can understand the principles of power politics, but he can never prevent escape or control their inexorable operation. If he is foolish enough to try, he is destined to suffer the penalty which in foreign affairs is most often fatal. So like a tragic Greek hero blinded by *hubris*, the Athenian city state was ultimately struck down by fate.

Thucydides saw significant limitations upon the reach of man's free will in history. Even in those situations where his judgment did

come into play to act in accordance with pure calculations of interest and power, man remained a victim of fate and the impersonal forces of history. Essentially, man was left with a choice between performance or non-performance of those actions essential to survival. Man could exercise his free will by accepting his fate and therefore perhaps live or else challenge his fate and probably die. Nevertheless, there did exist this choice.

B *The State: Domestic Politics*

In contradistinction to foreign affairs, the character of relations within the Greek polis was fundamentally different. There the traditional bonds of law, morality, custom, family, religion, patriotism, and reputation were conducive to social harmony and the promotion of both the internal and external integrity of the polis. Although power might be at the root of all forms of domestic political organization, it did not usually manifest itself openly but lurked within the interstices of the social fabric unless and until the latter was seriously disrupted. Otherwise, altruistic non-power phenomena superficially appeared to be the operative dynamics of the internal political system. They constituted the fiber of social cohesion which concealed the pervasive presence of power from the purview of everyday domestic affairs. Their purpose was to guarantee that relations between individuals within a city state did not characteristically function like those between city states themselves, i.e. in the form of near-perpetual warfare. It was only in periods of protracted crisis—e.g. foreign war, natural disaster, social revolution—that these beneficent bonds which held power politics in check were subjected to such tremendous pressure that they were irreparably weakened and eventually torn asunder. Once freed, power politics would burst forth into the arena of domestic affairs with all its anarchical, immoral, and destructive omnipotence.

Thucydides explored these themes in the passages describing the plague at Athens (which included Pericles' speech of defense before the Athenian assembly) and the revolution at Corcyra. As for the plague, Thucydides explained the symptoms of the disease and its devastating consequences for the physical and mental state of the afflicted. From an account of the plague's effects upon the Athenian citizens individually, Thucydides proceeded into a discourse upon its deleterious effects upon the political entity. The omnipresence of the plague ensured that few if any citizens would escape the affliction. This created a general pall of resignation to the seemingly inevitable. The futility of measures for alleviation of the suffering fostered deep despair among the sick and their comforters. Almost certain fatality created absolute dejection among the stricken and unbearable anxiety among those whose turn was yet to come.

The social fabric of the polis dissolved in proportion to the dimi-

nation of its citizens expectations that they would live to see the end of this calamity Sacred burial rites were first ignored then later desecrated³³ The gods and the laws fell into disrepute as men gave vent to the immediate gratification of their own self interest in an orgy of license and cupidity The plague had severed the traditional bonds which restrain the passion of men The Athenian polis like its citizens was literally rotting from within

In Pericles classic speech of defense before the Athenian assembly Thucydides had his protagonist make the astute yet profoundly cynical observation that social harmony within all forms of political organization ultimately rests upon self interest and power³⁴ Individual citizens must be willing to subordinate their self interest to the interest of the polis Under normal circumstances they do so because they are able to intuit rationally that the furtherance of their own interests requires the advancement of the polis welfare as a necessary precondition But the ability of citizens to understand this symbiotic relationship between their own interests and those of the polis is impaired by the onset of severe crises Human reason is a delicate object Yet upon it depends the life of man and his society The Athenians did not follow Pericles sage advice³⁵ and consequently lost the Peloponnesian war because of their own internal disorders³⁶

The paradigmatic example of internal dissolution eventually repeated throughout ancient Greece was the revolution at Corcyra Once again Thucydides analyzed the course of this revolution as if it were a disease a plague of the body politic Here political faction degenerated into class warfare in which the poor seized the occasion to butcher the rich and appropriate their possessions Men abandoned all loyalty to the polis for that of their faction until even blood became a weaker tie than party³⁷ Society's system of values become totally inverted Temperance was no longer praised but condemned Boldness rash impulse license and avarice characterized relations between members of opposite factions Meanwhile the moderate part of the citizens perished between the two either for not joining in the quarrel or because envy would not suffer them to escape³⁸ The Corcyraean revolution terminated only when the last surviving oligarchs were slain³⁹ Domestic affairs had assumed the character of foreign affairs where war power politics and physical extinction were the order of the day

33 *Id* at 112 13
34 *Id* at 116
35 *Id* at 120
36 *Id* at 121
37 *Id* at 190
38 *Id* at 190-91
39 *Id* at 184 92 233 35

C Man Human Nature

Thucydides argued that the fundamental reason for the hegemony of power politics in both foreign and domestic affairs was human nature⁴⁰ Mankind's ineluctable lust for power arising from greed and ambition⁴¹ was the primal force behind the rule of power and interest in politics So long as this facet of human personality remained unchanged the lessons of power politics set forth in his book would hold true Thucydides stated intention to create thereby a possession for all time⁴² testified to his profound belief that this nefarious aspect of human nature is universal inalterable and eternal Belief in the permanency of the despicable element of human nature permitted Thucydides to offer in good faith his reflections on power politics to those inquirers who desire an exact knowledge of the past as an aid to the interpretation of the future which in the course of human things must resemble if it does not reflect it⁴³ Human history must repeat itself Ironically human nature determines that such repetition takes the form of a constant struggle for power and survival by men and states

III TRANSITION TO MODERNITY

The fundamental principles of power politics elucidated by Thucydides form the basis for all similar theories in the subsequent history of Western political philosophy Thus Machiavelli constructed his own theory of power politics on the foundation Thucydides had erected some two millennia earlier Yet there was a glaring discontinuity of over two thousand years of ancient and medieval Western thought in the evolution of a theory of power politics from the time of its original promulgation by Thucydides until the elaboration of its second and certainly most extreme stage by Machiavelli in *The Prince* Two reasons were responsible for this theoretical chasm Platonism and Christianity These two philosophies were founded upon premises diametrically opposed to those of power politics Their spectacular success at capturing the imaginations and minds of generations of philosophers and theologians accounts for the virtual disappearance of power politics as a philosophy for political action during the era between Thucydides and Machiavelli Unlike Plato's republic and Christ's kingdom of heaven however power politics was to reign supreme in Machiavelli's principedom

A Platonism

In the wake of the devastation wrought by the Peloponnesian war

40 *Id* at 190 91
41 *Id* at 190
42 *Id* at 15
43 *Id* at 14 (emphasis added)

Plato wrote to refute the sophistic teachings of Thucydides on power politics. After all had not the sophistic philosophy of power politics been ultimately responsible for the war and the defeat of Athens at the hands of Sparta? The philosophy that might makes right is fine for the victor but not the vanquished. There must be some purpose to politics beyond the mere accumulation and exercise of power.

1 The System

Thucydides and Plato did not differ significantly in their perception of the supremacy of power politics in relations between city states. Foreign affairs was a state of constant warfare or preparation for war. Peace was the exception not the rule. From this fundamental condition of the Greek city state system arose the need for the establishment and maintenance of a permanent warrior class within *The Republic* whose sole purpose was to wage war. Yet, in the Fifth Book Plato differentiated between warfare among Greeks and warfare between Greeks and barbarians. To the former type of hostilities Socrates ascribed the name *faction*⁴⁴ in preference to that of warfare since all Greeks were by nature friends and lovers of each other. Moreover, faction between Greeks must not assume the form of unmitigated warfare but must be undertaken for the purpose of correction and pursued according to certain rules of behavior. Although this was a utopian prescription given the tenor of the times it nevertheless represented an effort by Plato to extend some of the humanitarian principles he had developed in his analysis of the internal dynamics of the state to the conduct of relations between sovereign political entities.

2 The State and Man

Whereas Thucydides relied exclusively upon historical analysis as the source for his examination of the interrelationship between human knowledge and political action Plato rejected this technique as unsatisfactory and indeed delusory. History is merely another convention which cannot possibly provide a standard of measurement for political action. Through rational intellection alone man must rise above his history in order to understand abstract and perfect forms that will enable him to judge history by some objective criteria. This is precisely what Plato proposed in *The Republic*. Plato did not concern himself with what type of political system was historically favored. Expedience and power politics were rejected in preference to that model of political order which most perfectly approached the idea of the good. The sophistic argument that might makes right was demolished in the dialogue between Socrates and Thrasymachus in the First Book of *The Republic*

*lic*⁴⁵ and the dialogue between Socrates and Polus and Callicles in *Gorgias*. There Socrates refuted Callicles contention that the conventions of morality are merely inventions by the weak to protect them against the strong.⁴⁶ For Socrates/Plato it was better to suffer injustice than to inflict injustice.

In Plato's *Republic* there existed a perfectly harmonious society solidly rooted in justice which stemmed from the division of labor among its members and firmly guided by the philosopher king. Later in the *Statesman* the image of the great political founder was preserved yet he was no longer a philosopher king but a craftsman who weaved the vigorous and aggressive warp of society with its quiet and moderate woof in order to create social harmony. Finally in *The Laws* Plato near the end of his life argued that in the almost inevitable absence of superior statesmanship society must be governed by an established body of laws which have been frozen into perpetuity to stem the tide of change that necessarily subverts the existing harmony of society. Although these three stages of thought upon the nature of the state represented a progressive diminution of Plato's political ideals they nevertheless stand in sharp contrast to the teachings of Thucydides on the function of the state.

The foremost obstacle to the realization of the Platonic republic is ignorance. Here Plato defined ignorance in its most pernicious form—acceptance of and complacency with received modes of thought originating in convention. Thus in the *Apology* Plato stated that Socrates source of knowledge was that he knows that he does not know.⁴⁷ In *The Protagoras* it was the unwillingness of Protagoras teacher of sophists to question what he believed that doomed him to ignorance and defeat by the intellect of Socrates. It was Socrates unremitting quest for knowledge that spared nothing from the test of reason which constituted the core of his philosophy which enabled him to approach the truth which established the source of his virtue and which ultimately led to his death. The Socratic doubt is a far cry from Thucydides' sophistic proclamation of the existence of universal and eternal laws for history.

Once this ignorance of self complacency has been destroyed man can commence the pursuit of knowledge that will enable him to create the republic and determine his future in a manner designed to ensure his happiness. The process by which knowledge can be ascertained is that of the dialectic through the operation of which reason manifests the truth. So in the *Statesman* the Stranger from Elea chides the Younger Socrates to the effect that the purpose of their mental exertions is not to discover the essence of statesmanship or even to describe

45 *Id* at 13-34

46 See PLATO *GORGIAS* 78-79 84-90 (Penguin ed 1960)

47 PLATO *APOLOGY* IN *THE WORKS OF PLATO* 59-66 (Modern Library College ed. 1928)

44 See PLATO *THE REPUBLIC* 150-51 (A Bloom trans 1968)

the true statesman but instead to become better dialecticians⁴⁸

With the Socratic dialectic in operation and the ignorance of convention dispelled man can begin to construct the republic in his mind but only in his mind which is the tragedy of the *Republic*. For as Socrates laments to Glaucon in Book Five unless philosophers rule as kings or kings becomes philosophers the ideal polis will never be realized.⁴⁹ Unless political power and the knowledge and virtue flowing from philosophy coincide in the same person the republic is destined to remain a transcendent archetype which embodies the idea of the good but in no way reflects the reality of power politics.

Here Plato must make a major concession to Thucydides. Power politics correctly describes the nature of political action in the real world. The philosopher must acquire and exercise power if he desires to attain his objective of social harmony and justice for all in this life. The primary motivation for the philosopher king however will not be to satiate his lust for power arising from greed and ambition or even to achieve historical glory but to direct his subjects towards a life of virtue and himself towards immortality. The philosopher king will have no need for the things of this world because he has seen the good.

These points encapsulate the elemental distinction between the philosophers of Thucydides and Plato. Whereas Thucydides believed the nature of man to be irremediably despicable Plato affirmed that man was essentially good and infinitely perfectible. Thus in the *Phaedo* Socrates provided a glimpse of immortality that proved remarkably similar to the kingdom of heaven promised by Jesus Christ in the New Testament.⁵⁰ Christ simply expanded the Socratic promise of salvation to include all men not just the philosopher. Socrates martyrdom for the sake of his philosophy presaged the death of Christ for his religion. Christ's inquisition before Pilate is reminiscent of Socrates' *Apology*, the Last Supper and Agony in the Garden akin to the *Crito*. Not surprisingly Christianity was infused with the Platonic ethos.

⁴⁸ PLATO STATESMAN 50 (J Skemp trans & M Ostwald ed 1957). Plato's process of dialectical reasoning has little in common with the so-called Socratic method universally employed in contemporary American law schools except that both assume the outward guise of a dialogue consisting of questions and answers. Current practitioners of the Socratic method delight in their claim that they teach only neutral or value free principles and techniques. It is up to their students to apply them to the real world as they see fit. This is precisely the sort of pernicious wisdom that the sophist Gorgias proclaimed to possess. According to Socrates/Plato value free principles and techniques are in fact non-existent and it is delusory to believe otherwise. Without the guidance of virtue inculcated by the study of philosophy they become dangerous because they degenerate into nothing more than instruments of sophism experience and power politics. The real Socratic dialogues of Plato had as their ultimate purpose an approach to truth and the promotion of virtue within their students. The Socratic method of today's sophists however is designed to accomplish neither of these twin objectives. Indeed the latter goal is expressly disclaimed. It is therefore a perversion of Plato to associate their teaching method with the name of Socrates. It should be called instead the sophistic method.

⁴⁹ PLATO THE REPUBLIC 153 54 (A Bloom trans 1968)

⁵⁰ PLATO PHAEDO IN THE WORKS OF PLATO 109 (Modern Library College ed 1928)

B Christianity

In addition to Plato the historical interm between Thucydides and Machiavelli witnessed the birth growth and efflorescence of the Christian religion. Its fundamental ideal of love was antithetical to the rudimentary essence of power politics. The quintessence of the Christian theory of love is set out in the numerous utterances attributable to Jesus throughout the books of the New Testament epitomized by the Sermon on the Mount.⁵¹ Christianity is a philosophy premised upon total passivity in the face of power. Instead of striking back or even defending from the blow of an aggressor a Christian cheerfully offers the other cheek willingly walks the extra mile and freely gives both the coat and the cloak. Christianity emphatically denies that the spiritual realm of love can have anything at all in common with the temporal domain of power politics. The nature of love is diametrically opposed to the will to power self interest and domination which are characteristic of politics. They represent two separate but co-existent worlds which man must never confuse even though he lives simultaneously as a member of both. Thus the famous words spoken by Christ. Render therefore unto Caesar the things which are Caesar's and unto God the things that are God's.⁵² These words were to resound throughout the subsequent history of Western philosophical thought. The teachings of Christ were to ordain the theological philosophy of medieval man concerning the religious mission of politics: the interdependence of church and state and an essentially derogatory attitude towards temporal power *per se*. The free will of man would be frozen into an essentially Augustinian conception of the universe for a thousand years.⁵³

Machiavelli reserved some of his most highly vituperative language to criticize the love ethos of the Christian religion.⁵⁴ The Christian religion is made for and engenders nothing but cowards who have neither the strength of character to assert their own free will nor the determination of mind to oppose their human dignity against the power of would be oppressors. To Machiavelli such men deserve nothing but absolute contempt and continued exploitation. What Christians need is a good dose of heroic virtue drawn from ancient religion and steeped in the beastly aspects of human nature. It was essential for the political emancipation of the Italian people to cast off the encrustations of fifteen hundred years of suffocating Christian decadence in order to release a new theory of dynamic political action that would free

⁵¹ See *Matthew* 5 6 7 (King James)

⁵² *Id.* at 22 21

⁵³ See ST AUGUSTINE, THE CITY OF GOD (J Healey trans 1945)

⁵⁴ See N MACHIAVELLI DISCOURSES ON THE FIRST TEN BOOKS OF TITUS LIVIUS IN THE PRINCE AND THE DISCOURSES 99 284-85 (Modern Library College ed 1950) hereinafter cited as DISCOURSES]

modern man to claim his earthly destiny here and now power politics. The principedom would supplant both the city of God and its forerunner the republic.

C *Thucydides*

In a letter to his friend Francesco Vettoni Florentine *charge d'affaires* in Rome Machiavelli revealed the source of his inspiration the teachings of the ancients.⁵⁵ Machiavelli's love and respect for every thing ancient—wisdom religion institutions virtue etc—is evident in the pages of *The Prince* and *The Discourses*. Herodotus Xenophon Aristotle Plutarch Polybius Tacitus Juvenal Livius—all left their imprint upon Machiavelli's conception of the nature of politics. His assimilation of the lessons of the writers of classical Greece and Rome exerted a seminal influence upon Machiavelli's speculations about political affairs in general and upon his composition of *The Prince* especially. The work was to be a distillation of the wisdom of the ages.

The name of Thucydides must appear among those on that list. For Book II Chapter II of *The Discourses* adduces as an example of the ancients' hatred of tyranny and love for freedom an account of the Corcyraean revolution which seems to be taken directly from Thucydides' description of those events in Books III and IV of *The Peloponnesian War*.⁵⁶ Conclusive evidence on this point can be found in *The Discourses* Book II Chapter XVI where Machiavelli specifically mentions Thucydides by name in reference to an incident narrated in the latter's work in support of the former's proposition that men of extraordinary merit are neglected by republics in times of peace.⁵⁷ The effect of Thucydides' teachings upon the thought of Machiavelli rests on more than mere speculation.

Although the exact nature and extent of Thucydides' influence upon Machiavelli is impossible to measure a tentative hypothesis would suggest that it was Thucydides who paved the way for Machiavelli's theory of power politics. The former's original proclamation of such a doctrine in *The Peloponnesian War* directly facilitated Machiavelli's extension in *The Prince*. The lucid Thucydidean exposition of power politics supplemented by his own experience in foreign and domestic affairs convinced Machiavelli of the doctrine's truth and usefulness and enabled him to overcome the countervailing tendencies of conventional human sentimentalities and the highly refined dogma of the theologically oriented political philosophy of Christianity. Thucydides laid the groundwork and Machiavelli built the superstructure

⁵⁵ Letter from Niccolò Machiavelli to Francesco Vettoni Dec 10 1513 *reprinted* n. 2 MACHIAVELLI THE CHIEF WORKS AND OTHERS 927 929 (1965)

⁵⁶ See DISCOURSES *supra* note 54 at 99 284 Cf. THUCYDIDES *supra* note 12 at 184-92 233 35

⁵⁷ DISCOURSES *supra* note 54 at 99 462

for a modern theory of power politics. If Machiavelli is the founder of modern political philosophy then both *The Prince* and the philosophy of power politics represent the reincarnation of a truth that is exceedingly old but forever new. *The Prince* was a true revolution in philosophical thought defined in the classic sense of that term from the Latin word *revolvere* to roll backwards.⁵⁸

IV MACHIAVELLI

If Thucydides was the first teacher of power politics then Machiavelli was the atypical student genius who carried his master's lessons to such logically extreme conclusions that they would have been spiritually objectionable to the teacher himself if given the opportunity for further reflection. Here Stanley Hoffmann's distinction between a moderate and a revolutionary international political system becomes relevant⁵⁹ for they each find their respective philosophical counterparts in the theories of power politics propounded by Thucydides and Machiavelli. *The Peloponnesian War* is the treatise for a relatively moderate theory of power politics in comparison to Machiavelli's *The Prince*. The latter reads like a revolutionary manifesto for the most radical version of power politics known to Western philosophical thought.

A *The System and the State Non Differentiation of Foreign and Domestic Politics*

Thucydides faithfully adhered to an analytical differentiation between the requisite department of political relations between city states which he advised and the optimal conduct of intercourse between individuals within the same city state which he preferred. In intercultural affairs power politics must be the common denominator of all forms of interaction. Yet in domestic relations even though he perceived that power relations were the very cornerstone of the polis nevertheless Thucydides believed that the existence of non power basically altruistic socio psychological phenomena such as justice morality religion kinship and honor prevented the internal dissolution of the city state and were therefore beneficial indeed essential on the domestic level of analysis. Thucydides did not preach the ruthless exploitation of such non power factors for reasons of political expediency but only that they should be completely ignored in making decisions relating to foreign affairs and cultivated as much as humanly possible in domestic matters even if subsequent crises rendered this latter labor fruitless. Throughout *The Peloponnesian War* Thucydides maintained

⁵⁸ CASSELL'S NEW COMPACT LATIN ENGLISH ENGLISH LATIN DICTIONARY 196 (1963)

⁵⁹ Hoffmann *International Systems and International Law* in THE STATE OF WAR 88 (1965)

a strict theoretical distinction between power and nonpower elements not offering a value judgment that condemned the former (since this would merely have amounted to a meaningless condemnation of natural historical forces that were beyond the control of ordinary men) yet seemingly always clinging to a moral preference for the latter. When put to a choice, Thucydides would in principle have chosen moral good over moral evil. Thus he described his theory of power politics with an inordinate degree of personal tragedy. It was the omnipotent machinations of power politics that led to the final subjugation of Athens by Sparta at the end of the war.

On the contrary, Machiavelli drew no flaccid distinction between the required or the desired functional dynamics for foreign and domestic politics. Instead he obliterated the classical Thucydidean differentiation. It was not that Machiavelli was unaware of the level of analysis problem for in *The Discourses* Machiavelli prescribed in detail the contours of an ideal state. It was simply that the level of analysis problem was irrelevant to the subject matter of *The Prince*, i.e. creation of the state itself. For Machiavelli power politics was the only guarantee of survival among principalities and the only reliably cohesive element within a new principality as well.

The Machiavellian prince had no friends only present and potential enemies both foreign and domestic. There must be no mitigation in the ferocity of application of power politics by a new prince towards his subjects. These techniques became just as ruthless as those applied against the foreign enemy though perhaps a bit more subtle and complicated. The prince not only waged physical warfare unremittingly against foreign rivals and periodically when necessary against his own people but he also continuously engaged in psychological warfare against his subjects in all possible ways and upon all appropriate occasions.⁶⁰ Thus Machiavelli counselled that the prince should appear to be all compassion all faithfulness all integrity all kindness all religion⁶¹ in order to cultivate personal esteem amongst the people not for their benefit but solely in order to enhance his own position through the construction of a benevolent façade designed to extract the support of the simple and ignorant masses. Simultaneously however the prince must always be ready willing and able to inflict upon his subjects any punishment cruelly and atrocity required to preserve or advance his power position. In effect it was not necessary that the prince have these good qualities but only that he appear to have them for men are so simple minded and so dominated by their present needs that one who deceives will always find one who will allow himself to be

deceived.⁶² Certainly the Machiavellian prince should not routinely act like an unbridled tyrant unless for some irrational reason he seeks to increase the probability of his deposition. But in Machiavellian philosophy the only limitation upon the exercise of power politics is self imposed and this merely to achieve and maintain the maximum degree of political aggrandizement and exploitation permissible under the given historical circumstances.

B. *Annihilation of the Balance of Power System*

The contrast between the intensity in Machiavelli's theory of power politics and the more restrained character of Thucydides's version is not attributable to the existence of dissimilar historical conditions. Both lived in periods when their native lands had been reduced to the ignominy of protracted internecine warfare. Thucydides saw no prospect for improvement in this situation because of his belief in the inexorable machinations of the balance of power which like power politics was another of the eternal and universal laws of history.⁶³ Thucydides correctly perceived that even major fluctuations in the composition and alignment of the balance of power could never eliminate the source of contention among the city states for this resided in the operational automaticity of the balance of power system itself. Whereas Thucydides was a pious believer in the inevitability of the balance of power (hence his moderate theory of power politics) Machiavelli was an ardent zealot for its destruction *in toto* (hence his radical theory of power politics). Machiavelli advised the prince to annihilate the balance of power system in Renaissance Italy. Machiavelli prayed for one Italian prince following the advice of his booklet first to consolidate his position within his own principality then to unite Italy by conquest of her disparate political units and finally to liberate her from foreign interventionists and thus establish a second Roman Empire.⁶⁴ Machiavelli wished to replace the balance of power system with what contemporary international political scientists call a directive (*i.e.* authoritarian) hierarchical system.⁶⁵ Thucydides did not entertain such an apocalyptic vision because it would have been difficult for any one Greek polis or alliance of city states to unite all the others into

62 *Id.* at 147.

63 On the balance-of power see I. CLAUDE, *POWER AND INTERNATIONAL RELATIONS* 3 149 (1962); M. KAPLAN, *SYSTEM AND PROCESS IN INTERNATIONAL POLITICS* 21 36 (1957); H. MORGENHAU, *POLITICS AMONG NATIONS* 165 221 (5th ed. 1973); A. ORANSKI, *WORLD POLITICS* 272 99 (2d ed. 1968); THEORY AND PRACTICE OF THE BALANCE OF POWER 1486-1914 (N. Wright ed. 1975); D. HUME, *OF THE BALANCE OF POWER*, in 3 *THE PHILOSOPHICAL WORKS OF DAVID HUME* 364 (1854); A. WOLFERS, *The Balance of Power in Theory and Practice*, in DISCORD AND COLLABORATION 117 (1965).

64 THE PRINCE, *supra* note 60 at 217 25 (Chapter XXVI. Exhortation to Take Hold of Italy and Liberate Her from the Barbarians).

65 This term is one of six actual or potential states of international equilibrium described in M. KAPLAN, *SYSTEM AND PROCESS IN INTERNATIONAL POLITICS* 21 53 (1957).

60 See e.g. N. MACHIAVELLI, *THE PRINCE* 145 147 (M. Musa trans. 1964) (how to be a fine liar and hypocrite praise for Pope Alexander VI's disingenuous nature).

61 *Id.* at 149.

some higher form of political organization. Consequently he stoically resigned himself to the balance of power system with its naturally disruptive and destructive frictions.

C *Free Will and History*

As the archetypal existential man of modernity however Machiavelli was willing to concede that fortune (*fortuna*) determines the outcome of at least half the pursuits of man.⁶⁶ But the other half is left to his courage and cunning ingenuity intelligence foresight and boldness in other words to his free will. Machiavelli epitomized all of these human characteristics in the Italian word *virtu*.⁶⁷ In the world of Machiavellian power politics man's free will and *virtu* stood more than a fighting chance of conquering the domain of fortune. *The Prince* described in graphic detail the literal war that tempestuous men waged against their own milieu. Moses, Cyrus, Romulus and Theseus, Alexander VI, Cesare, Borgia and Julius II—these were the men who dared to reject a life of passivity who refused to surrender to fate in abject submission who ventured to exalt the free will of man above the ostensibly inexorable flow of history. The motivating impulse behind Machiavelli's theory of power politics was a firm belief in the quintessential duty of modern man to assert the dignity of his own free will even in the face of a malevolent fortune. For his effort the Machiavellian prince would receive the adulation and glory of history.

D *Human Nature*

1 *The People*

Yet paradoxically at the heart of Machiavelli's analysis of power politics lies a profoundly cynical conception of human nature—similar to that of Thucydides.⁶⁸ To Machiavelli most men are a contemptible lot completely dominated by a rabid acquisitive spirit whose sordid impulses they prefer to obey over his glorious call to political action. The vast majority of men are afraid to assume any political responsibility whatsoever. Instead they willingly surrender the freedom and dignity of their right of historical action to princes who possess the force of character requisite to make the difficult and often times distasteful decisions that power politics demands from its adherents. A man's fear of his own destiny received especial reprobation from Machiavelli for if there was one thing which he detested more than any other it was one man's abdication of his own free will to that of another or to a lesser extent to the caprice of fortune. Esauian men who sell their historical birthright for a bowl of illusive contentment deserve whatever excesses

66 THE PRINCE, *supra* note 60 at 209, *passim*.

67 See Musa, *Introduction to THE PRINCE*, *supra* note 60 at x xv.
68 THE PRINCE, *supra* note 60 at 139.

are meted out to them by a prince. The Machiavellian creed is a philosophy for the strong with absolutely no sympathy for the weak precisely because they are so contemptible.

Common men comprise a driven herd whose frenetic motions are preordained by an elemental selfishness which breeds upon fear ambition hatred infidelity and the multitude of other deficiencies and weaknesses that plague the human personality. This seething mass of conflicting interests and confounded vices generates the primordial flux and uncertainty of the political world which continually pose an irrepressible threat to the life and rule of the prince.⁶⁹ The incessant clash of human vices foments the tumultuous upheaval of earthly precedents throughout the course of history. And this pattern eternally repeats itself.

2 *The Prince*

Yet the sword of human personality displays a double edge the reverse side of which can be turned to the advantage of the prince. For the invariable constancy of the despicable nature of man provides the one fact upon which the prince can rely to remain fixed in politics. He must respond appropriately. The prince must utilize his own beastly character to tame the unruly nature of his subjects. For the nature of the prince is not of the same essence as that of the common man, and indeed resists upon a higher level than that of all other men.⁷⁰ The prince ideally partakes of two natures—one human the other bestial. And since in politics human reason is frequently ineffective the powers of beasts must often be resorted to. The wisdom of the fox and the strength of the lion must be fused to fashion a beastly element within the prince to create a most cunning and dangerous animal.⁷¹

The political unreliability of the common man is best and most assuredly cured by the techniques of power politics.⁷² Fear of death must be instilled through the threat of punishment which is given substance by physical force.⁷³ Outright compulsion must be the foundation of the state and it is through the judicious exercise of power politics that a prince can impose the order of his own free will upon the subservient wills of others and forge this depersonalized material of history into a structure created in his own image—the principality.

In the Machiavellian system of political theology the act of political foundation is equivalent to the original act of historical creation by God the Father himself.⁷⁴ God created man in his own image so that

69 *Id.* at 9.

70 *Id.* at 3.

71 *Id.* at 145-47.

72 *Id.* at 45.

73 *Id.* at 139.

74 Cf. N. de Coulanges, *THE ANCIENT CITY* 134 (Doubleday Anchor Books ed. n.d.) (for the ancients, foundation of a city was always a religious act). *DISCOURSES*, *supra* note 54 at 99.

the Machiavellian beast man can rule him as he sees fit. To the prince Machiavelli prescribed death as the universal antidote to the disease of political uncertainty that infests his principality for only death provides a final solution to men contaminated by original sin from birth.⁷⁵ It is near the abyss of death at the behest of power politics that the Machiavellian quest for absolute security in the hostile world of political affairs terminates.

3 The Human Need for Power Politics

Power politics is an historical necessity required by the despicable nature of man himself. If not for the immutable fact that men generally are ungrateful, fickle, liars and deceivers, avoiders of danger and greedy for profit, Machiavelli intimates,⁷⁶ power politics might not have to be the *lingua franca* of all political relations. For if all men were good, historical conditions would definitely be different and Machiavelli's principles of power politics consequently displaced as invalid.⁷⁷ By implication, since men are not angels but men and therefore naturally evil, the prince cannot be good either.⁷⁸ Thus like Thucydides, Machiavelli's theory of power politics flowed ineluctably from his cynical conception of the nature of man.

This undimensional view of human nature stood in sharp contrast to the traditional doctrine proclaimed by Platonism and Christianity which had gained sway over Western philosophical thought during the historical interim between Thucydides and Machiavelli. Although Platonism and Christianity recognized the evil elements of human nature, they did not despair but instead affirmed their rudimentary belief in the infinite moral perfectibility of man, either in this life (Plato) or in the next (Christ). According to Machiavelli, however, it is the unreformable, irredeemable nature of man which will perpetually prohibit him from attaining the chthonic heights promised by Platonic philosophy or Christian theology. The conventional belief that moral perfection is the human destiny is a figment of someone's utopian imagination.⁷⁹ The despicable nature of man will destroy all those who ignore its reality in pursuit of their delusive dreams of salvation.⁸⁰

145-49 (approval of Numa's feigned divine inspiration). Compare DISCOURSES, *supra* note 34, at 99-138-41 (to found a new republic or to reform entirely the old institutions of an existing one must be the work of one man only) with H. KISSINGER, THE NECESSITY FOR CHOICE 3 (1961) (a democracy needs leaders willing to stand alone) and FALLACIES, *Kissinger*, NEW REPUBLIC, Dec. 16, 1972, at 17-21, 22 (Kissinger's lonesome cowboy hypothesis).

75 THE PRINCE, *supra* note 60 at 15.

76 *Id.* at 145-47.

77 *Id.* at 145.

78 *Id.* at 129.

79 I would like to thank Joseph Cropsey of the University of Chicago Department of Political Science for this point.

80 THE PRINCE, *supra* note 60 at 127. In this classic passage, one of the most memorable in all Western political philosophy, Machiavelli drew his fabled distinction between the is and the

Machiavelli forever parted company with both Platonism and Christianity. Irrespective of ideological differences, each of the latter had been enfeebled by a similar congenital defect: Platonism and Christianity received their inspirational geneses from debilitative seed—the former from the Platonic dream of a republic that historically never was and will never be, and the latter from Christ's promise of the spiritual kingdom of heaven that can only supplant temporal kingdoms of earth in a next life that will never come to pass. Both ancient utopian and Christian political philosophy valued the reputedly pure essence of life as morally superior to its allegedly base physical existence, axiomatically stating that it is better to die good than to live evil. The martyrdoms of Socrates and Christ would not be replicated by the Machiavellian prince. His Golden Rule must be *Do unto others before others do unto you*.¹⁸¹

E The Morality of Power Politics

Certainly, Machiavelli understood the formal distinction between moral good and moral evil, but for all practical purposes, differentiation between these two in political affairs was utterly absurd if not absolutely dangerous for a new prince. To engage in sentimental distinctions between good and evil was a luxury the Machiavellian prince could not afford.⁸² Machiavelli turned the utopian system of priorities upon its perverted head through glorious exaltation of the sheer fact of human existence over the deceptive facade surrounding its non-existent qualitative essence. To him, life was worth living, whether good or evil or indifferent, because it is all that man has or ever will have. Since eternal redemption is impossible, moral scruples must not interfere with life's enjoyment to the farthest reach of man's free will.

In several passages, Machiavelli merely defined moral evil as political (not moral) good, thus implicitly retaining the separation between the world of morality and that of power politics.⁸³ To the same effect, are those sections in which Machiavelli argued that the prince must often choose the least bad as good.⁸⁴ Elsewhere in *The Prince*, however, Machiavelli elevated politically expedient moral evil into moral as well as political good, and in the process established the absolute subjugation of ethics and morality to power politics.⁸⁵

ought to be of political affairs—a bifurcation which has relentlessly haunted both modern political philosophy and also concomitantly the lives of all modern (i.e. post-Machiavellian) men.

81 Contrast this with the Golden Rule promulgated by Jesus Christ as part of The Sermon on the Mount, MATTHEW 7:12 (King James): "Therefore all things whatsoever ye would that men should do to you, do ye even so to them; for this is the law and the prophets."

82 THE PRINCE, *supra* note 60 at 147-49.

83 See e.g. *id.* at 73 (to say good about the bad) *id.* at 127 (learn how not to be good) *id.* at 161 (forced into not being good).

84 See e.g. *id.* at 159, 191.

85 See e.g. *id.* at 101 (sins of princes) *id.* at 129 (some vices are good, others evil) *id.* at

At one point in his analysis Machiavelli implied that princes are governed by a moral system essentially different from that which pertains to the mass of common men.⁸⁶ Princes are subject to the unique moral code of power politics. It is only violation of the law of power politics—and nothing else no matter how conventionally immoral—that constitutes the sins of Machiavellian princes. Success or failure is his reward or punishment for obedience or disobedience of the law of power politics. Historical glory or ridicule will constitute his utmost salvation or damnation.

What Machiavelli effectively accomplished was the redefinition of conventional morality in existential terms. That which under the joint reign of Platonism and Christianity had been absolute moral good transmutes under the tyranny of power politics into absolute moral evil and *vice versa*. The independent variable of conventional morality becomes a dependent function in the equation of power politics. Qualitative essence is debased to the level of pure physical existence in which the traditional roles of good and evil have been diametrically transposed.

F The Law of Power Politics

Machiavelli's existential law of power politics is epitomized by the following enumeration of aphorisms:

- I Thou shalt be prudent in the use of violence⁸⁷
- II Thou shalt willingly employ extreme cruelty when moderation proves inexpedient⁸⁸
- III Remember thou that the cunning of the fox is just as potent as the strength of the lion⁸⁹
- IV Thou shalt guard against those things which make thee despicable in the eyes of the people for these engender hatred and contempt which seriously impair thine ability to rule⁹⁰
- V But it is much safer to be feared than loved by the people if one of the two must be lacking⁹¹
- VI Thou shalt keep thy promises only when good faith is deemed expedient⁹²

137 (cruelty can be compassionate) *id.* at 211 13 (mutability of what is good) *Cf. id.* at 141 (praise of Hannibal's inhuman cruelty)

86 *Id.* at 101

87 *Id.* at 13 17

88 *Id.* at 37 (destruction of republics) *id.* at 57 (prophylactic cruelty) *id.* at 141 (praise for Hannibal's inhuman cruelty)

89 *Id.* at 147 (need to become a fine liar and hypocrite) *id.* at 55 (Cesare Borgia's strangulation of the Orsini) *See also* Discourses *supra* note 54 at 99 318 20 (Ch. XIII Cunnings and Decent will Serve a Man Better than Force to Rise from a Base Condition to Great Fortune)

90 THE PRINCE, *supra* note 60 at 151 73

91 *Id.* at 137-43

92 *Id.* at 145-49

- VII Thou shalt abstain from the women and property of thy subjects⁹³
- VIII Thou shouldst be generous in the expenditure of other's funds but frugal in spending thine own⁹⁴
- IX Thou shalt constantly prepare thyself for war⁹⁵
- X But thou shouldst also cultivate the esteem of thy people as a solid foundation for the power of the principality⁹⁶

Adherence to the dictates of the law of power politics would facilitate the production within the prince of that intangible quality which Machiavelli denominated *virtu*. Perversion of that word in order to connote an idea which implied the exact antithesis of its conventional meaning was symbolic of Machiavelli's intention to set out a new morality for the prince to redefine the prince's conception of right and wrong to renovate completely his moral attitude towards the methods of political action which were universally practiced anyway—in other words to sanctify those tactics which are utterly devoid of any redeeming moral value whatsoever.

The law of power politics is required by the necessity for survival at any cost which in turn is necessitated by the despicable nature of the human personality. In political affairs the struggle for sheer physical existence assumes transcendent moral importance because in the event of failure the prince suffers the ultimate defeat of death—permanent annihilation of the free will. This is the meaning of Machiavelli's observation that the prince can perform the political experiment only once.⁹⁷ It is fitting for the law of power politics to judge according to the eventual success or failure of a man's political endeavors not by the moral quality of the means he employed to achieve the outcome. His story is written by the conquerors. And if the prince wishes to be remembered well and deemed successful he must force his way into their select brotherhood. Absence of a second chance to achieve historical glory which is the overarching goal in the Machiavellian system⁹⁸ means that a prince must be absolutely certain of the methods he engages on the first attempt. The only tactics safe and sure enough to use in the zero sum game of Machiavellian interaction are those of power politics.

G Necessity

The only scrap of ethical foistam and jetsam that might possibly be salvageable from the wreckage of ancient utopian philosophy and

93 *Id.* at 139 151

94 *Id.* at 131 35

95 *Id.* at 121 25

96 *Id.* at 185 92

97 *Id.* at 83

98 *See generally id.* at 69 205 211 219

Christian theology left in the wake of this Machiavellian onslaught on conventional morality is a doctrine of necessity (*necessitas*)—the third member of that famous Machiavellian trumvirate of immanent historical forces which includes *virtu* and *fortuna*. A morally impoverished doctrine of necessity remains as the only theoretical constraint working upon the practice of Machiavellian power politics in the contemporary world. According to this rationale implementation of power politics is expedient only to the extent it is necessary to attain the specific objectives of the prince. Neither the excessive nor the deficient use of power politics is historically justifiable the former because it is counterproductive the latter simply dangerous. Therefore the prince must be economic in the use of violence.⁹⁹

H The Just War and Law

The major residual benefit of the Machiavellian philosophy of necessity was the repudiation of the Augustinian doctrine of the just war¹⁰⁰ which was derived from Cicero.¹⁰¹ For Machiavelli the only war that was just was the war that was necessary¹⁰² once again turning the meaning of a term of conventional morality upon its head. Of course a war that was necessary had to be fought whether it was just or unjust in conventional moral terms. Nevertheless imposition of the requirement of necessity eliminated a substantial number of potential reasons for resorting to violence that were for example religious or ideological in nature. So following Machiavelli modern political realists have always favored pragmatists to crusaders as statesmen in foreign affairs. Necessity has also remained a condition for the legitimate exercise of the right to self defense in public international law.¹⁰³ The Machiavellian origin of this salutary doctrine is simply an indication of the political foundation of contemporary international law in the principles of power politics.¹⁰⁴

Concerning the relevance of conventional law to the entire political enterprise Machiavelli stated quite forthrightly that law is essentially a function and product of power relationships ultimately

⁹⁹ See S. WOLIN, *POLITICS AND VISION* 195-238 (1960) (Machiavelli and the economy of violence). Cf. *Estabbe*, *supra* note 11 at 852 (discussion of the economic violence corollary to the "least violative" principle of international law in crises).

¹⁰⁰ See *THE POLITICAL WRITINGS OF ST. AUGUSTINE* (H. Paolucci ed. 1962).

¹⁰¹ *THE REPUBLIC* (Book III) in CICERO, *DE RE PUBLICA*, DE LEGIBUS 12, 211-27 (Loeb Classical Library ed. 1928).

¹⁰² *THE PRINCE*, *supra* note 60 at 219.

¹⁰³ As definitively stated by Secretary of State Webster in the case of *The Caroline*, self defense is justified when the necessity of that self defense is instant, overwhelming, and leaving no choice of means, and no moment for deliberation. See *The Caroline*, 2 MOORE, *DIGEST OF INTERNATIONAL LAW* 409-412 (1906). W. BISHOP, *INTERNATIONAL LAW* 916-17 (3d ed. 1962).

¹⁰⁴ M. KAPLAN & N. KATZENBACH, *THE POLITICAL FOUNDATIONS OF INTERNATIONAL LAW* (1961).

founded upon military force, violence and coercion.¹⁰⁵ In political affairs law is devoid of independent significance on its own account. As Thucydides correctly observed some two thousand years before *right is only* in question between equals in power. The strong do what they will and the weak suffer what they must. Law becomes irrelevant in the face of power politics.

V HOBES

The next seminal theorist of power politics in Western intellectual history was Thomas Hobbes. Hobbes had read and translated Thucydides.¹⁰⁶ In *Leviathan* Hobbes took the joint instructions on power politics proffered by Thucydides and Machiavelli and built upon their theoretical foundations a new edifice for modern civil society. Hobbes constructed his commonwealth around and upon this description of the operational dynamics of power politics. Under the auspices of Hobbes a philosophy of power politics would come to constitute the very core of a modern theory on the nature and purpose of the state government constitutionalism, law, liberty and rights.

A Man

Hobbes shared with Thucydides and Machiavelli a profoundly cynical conception of human nature, no doubt precipitated by observations drawn from the experience of the English civil war.¹⁰⁷ Like Thucydides and Machiavelli, Hobbes discerned throughout the continuum of history the inexorable operation of an overwhelming *animus domini* within the personality of the eternal and universal man. The central axiom of Hobbes' theory of power politics thus became that all men are impelled by this biological psychological imperative to acquire power over other men in order to guarantee their own self preservation and well being. In this quite natural yet irrepressible quest for power to determine one's own existence it is essential for one man to dominate (*et* plunder, enslave or kill) another since only domination gives the highest possible though to be sure never absolute degree of certainty required to ensure physical existence.

Moreover, some men pursue power merely for the sake of self-aggrandizement and therefore seek to acquire a degree of power exceeding that necessary for their own self preservation, *e.g.* the Machiavellian prince. The existence of such men contributes magnitudinally to the general instability of relations among all men. In the absence of an absolute sovereign power to keep these destructive instincts under

¹⁰⁵ *THE PRINCE*, *supra* note 60 at 99.

¹⁰⁶ Hobbes published a translation of Thucydides' classic treatise *T. HOBBS, EIGHT BOOKS OF THE PELOPONNESIAN WAR*, WRITTEN BY THUCYDIDES THE SONNE OF OLOORUS (1629) (copy available in the Houghton Library of Harvard University).

¹⁰⁷ Hobbes, *supra* note 3 at 80.

control the *animus domandi* of human nature necessarily precipitates a state of war among all men. In this state of war each man is forced to become a Machiavellian prince merely to stay alive. This state of war between men without civil society is the Hobbesist state of nature where 'the life of man [is] solitary, poor, nasty, brutish and short'.¹⁰⁸

Unlike Thucydides and Machiavelli however, Hobbes did not characterize these traits of human nature in conventional moral or ethical terms. They were not good or bad but simply human and natural.¹⁰⁹ Hobbes redefined the conventional moral concepts of good and evil into what were to become classic utilitarian terms that is in accordance with the production of pleasure or pain. Conventional morality as defined by Platonism or Christianity consisted of nothing more than purely subjective value judgments that were essentially devoid of any real transcendental significance. Hobbes' hedonistic psychology served as the starting point for the full blown exposition of modern utilitarianism by Jeremy Bentham in his *Introduction to the Principles of Morals and Legislation*.¹¹⁰ As pointed out by John Rawls in *A Theory of Justice*, utilitarianism has become one of the two fundamental schools of modern jurisprudence in Western philosophical thought, the other being the social contract tradition of Locke and Rousseau.¹¹¹ Although diametrically opposed to each other in many essential respects, somewhat paradoxically both schools of thought found their origins in Hobbes.

In a state of nature moral value judgments are purely subjective for 'the notions of right and wrong, justice and injustice have there no place'.¹¹² Hence man can do whatever he pleases to protect himself and further his own interests. It is only within civil society that there exists an objective reference for moral judgments, i.e. the will of the sovereign.¹¹³ Within civil society the good or evil of an act is measured by this standard in accordance with its production of benefit or detriment for the commonwealth. Law is the tangible manifestation of the will of the sovereign by which such moral determinations are made. Yet the absolute power of the sovereign remains the ultimate source of the law.¹¹⁴ And the sovereign is above the civil law.

The non existence of common power over men in the state of nature means that there exists no law except those maxims of prudence which Hobbes calls the laws of nature dictating the basic require

108 *Id.* at 100.

109 *Id.* at 61.

110 J. BENTHAM, AN INTRODUCTION TO THE PRINCIPLES OF MORALS AND LEGISLATION (1826 ed.). See N. ROSENBLUM, BENTHAM'S THEORY OF THE MODERN STATE 40-46 (1978).

111 J. RAWLS, *Preface to A THEORY OF JUSTICE*, at vii ix (1971).

112 Hobbes, *supra* note 3 at 101.

113 *Id.* at 48-49.

114 *Id.* at 101.

ments for human survival in conditions of absolute warfare.¹¹⁵ Hobbes' laws of nature were similar to Thucydides' laws of history. For Thucydides, Machiavelli, and Hobbes the crucial task of the political philosopher was to discover the one source of relative certainty in the inherently unstable and deadly world of political affairs. All three set tled upon human nature which they believed to be universal, eternal and thus unchangeable. It was upon the bedrock of human personality that they constructed their respective theories of power politics. Power became the heart of their theories because they believed human nature was characterized predominantly by a will to power. Only through the mastery of power politics could a Thucydidean statesman, a Machiavellian prince, or a Hobbesist sovereign transcend the fluctuations of history created by the vicissitudes of human nature to found and maintain a haven of security in a world of destructive tumult.

B. *The State and the State of Nature*

As a purely heuristic device, Hobbes postulated the existence of a primordial state of nature.¹¹⁶ From the perspective of law defined in its conventional sense, the Hobbesist state of nature was a state of legal nihilism, his laws of nature antinomian. Hobbes saw three contemporaneous historical analogues to his state of nature: (1) the primitive conditions of the New World, (2) times of civil war, and (3) the system of international politics.¹¹⁷ The functional dynamics of civil society were differentiated from all three in that civil society was not characterized by constant warfare, though of course power was at the root of the state. In essence, the content of the Hobbesist state of nature consisted of a simple negatization of those elements constituting modern civil society.

I. *Equality*

In the state of nature, all men are equal because each can kill any other, whether by pure brute force or by stealth, either by himself or in combination with others.¹¹⁸ In civil society, men are equal too, but for a different reason. By entering the social contract, each new citizen surrenders his natural rights of gratuitous homicide and theft to the sovereign upon condition that everyone else does the same.¹¹⁹ Of course, even within civil society, men keep their right of self-defense because it is said to be inalienable.¹²⁰ The sovereign alone retains his natural

115 See generally *id.* at 103-24.

116 *Id.* at 100-02.

117 *Id.* at 101.

118 *Id.* at 98.

119 See *id.* at 129-33.

120 *Id.* at 105.

right to kill¹²¹ In effect the sovereign is not a member of the social contract and therefore is not bound by its terms He alone remains in his original state of nature in relation to the citizens of the commonwealth

2 Freedom

In the state of nature all men are perfectly free as well free to dominate all other men and if unsuccessful to be plundered enslaved or killed in return Within civil society however the Hobbesist man frees himself from the domination of all men except the sovereign The sovereign dominates all for the ultimate benefit of all and thus frees the citizens from the domination or threat of domination by others¹²² Within civil society the citizen remains free to do whatever the laws of the sovereign do not explicitly forbid

3 Death

Despite unparalleled equality and freedom the state of nature is an unacceptable condition because of the threat of sudden and violent death The natural fear of death and the natural desire for self preservation propel men into the formation of a social contract whereby they surrender their natural rights (except self defense) in return for the sovereign's guarantee of survival and prosperity For Hobbes the purpose of the state was to ensure not only that man lives but also that he lives well¹²³

4 The Sovereign

Once within civil society man must surrender his natural freedom and equality to the domination of one man *e.g.* the Hobbesist monarch or the Machiavellian prince a group of men *e.g.* Platonic guardians or even all men *e.g.* the Rousseauian general will Thus at the head of the Hobbesist commonwealth ruled a totally despotic sovereign preferably though not necessarily a monarch¹²⁴ who possessed absolute and illimitable powers¹²⁵ This power would preserve the peace among the citizenry through the installation of fear and terror or else when these fail through punishment¹²⁶ Law was the primary instrument for the sovereign to express his will and to coerce the peace Hobbes therefore originated the classic legal positivist proposition that the source of all law is the will of the sovereign and that in the absence of such a sovereign there is no law Hobbes perception of law as an

instrument of power was similar to Machiavelli's attitude towards law To be sure the sovereign uses law as a tool in order to create and maintain peace while the prince wields law like a weapon in order to fight war with his subjects Yet in either case the law *per se* is definitely not an embodiment of the Platonic ideal of the good and the just

5 Free Will and History

The source of legitimacy within the commonwealth was the consent of the citizens—in other words an act of their own free will¹²⁷ By an act of the citizens free will Hobbesist natural men put an end to the state of nature entered the social contract and constructed the *Leviathan* upon the principles of power politics Yet if the Hobbesist sovereign seeks to become a Machiavellian prince and therefore sets out to plunder enslave and destroy the populace the people can not exercise their inalienable right of self defense by instituting a revolution Hobbes specifically denied a right of revolution to the citizens of his commonwealth¹²⁸ A citizen or the citizenry had no right to return everyone to a state of nature because that was far more terrible than any degree of oppression practiced by a Machiavellian prince Thus according to Hobbes the fundamental paradox of modern man was that he could not live or live well without domination Buffeted between the Scylla of death and the Charybdis of domination mankind cannot sail a straight course into the calm waters of life and freedom His fate is either to be devoured by death or to be shattered by domination in life Nevertheless the choice remains one for man's free will

But if man was willing to live with domination he could in fact survive and live well by simply obeying the commands of the all powerful sovereign This proposition differed strikingly from Machiavelli in that his prince was as likely to kill his subjects as to preserve them and he always exploits them Not so for the Hobbesist sovereign His absolute dominance would liberate the citizenry from civil strife and discord so that they could pursue the acquisition of those physical goods conducive to their economic well being and personal happiness What they gave up in terms of natural rights to the sovereign would hopefully be more than compensated for by the economic benefits accruing to them in return Authoritarianism would bring forth capitalism Power would enforce prosperity¹²⁹

¹²⁷ *Id.* at 133 136

¹²⁸ *Id.* at 134-41

¹²⁹ See C MACPHERSON THE POLITICAL THEORY OF POSSESSIVE INDIVIDUALISM 46-70 (1962) MacPherson *Hobbes's Bourgeois Man* in HOBBS STUDIES 169 (K. Brown ed 1965) *But see* Letwin *The Economic Foundations of Hobbes' Politics* in HOBBS AND ROUSSEAU 143 (M. Cranston & R. Peters eds 1972)

¹²¹ See *id.* at 134-41

¹²² See generally *id.* at 134-50

¹²³ *Id.* at 80

¹²⁴ *Id.* at 142 50

¹²⁵ *Id.* at 134-41 155 58

¹²⁶ See *e.g.* *id.* at 129 130 132

6 *Hobbes and Modern Constitutional Theory*a. *John Locke*

In his *Second Treatise of Government*¹³⁰ John Locke revised and expanded Hobbes' analysis of power politics and transformed it into the Anglo-American liberal philosophy of government law freedom and especially rights as it exists today. In effect Locke rendered Hobbesism eminently palatable to Anglo-American sensibilities. Yet Hobbes and his theory of power politics still remain at the heart of the modern liberal tradition.

Like Hobbes Locke postulated the existence of a natural man who possessed natural rights and lived in a state of nature where he is governed by natural laws. These laws are the product of human reasoning flowing from man's natural desire for self-preservation and well-being. The Lockean state of nature however is not tantamount to a Hobbesian state of war by every man and against every man. Although Lockean men are by nature selfish they are eminently reasonable and empathetic beings. Therefore the Lockean state of nature is essentially a state of peace.

Man creates civil society for the express purpose of better protecting and promoting his property—a term Locke defined to include life, liberty, and estate.¹³¹—that famous Lockean trilogy which Jefferson transmogrified into the Life, Liberty, and the Pursuit of Happiness of the American Declaration of Independence. Locke theorized that the institution of private property existed antecedent to and independent of civil society. His first proposition was that every man has property in his own person. By mixing the property of his own person with the elements of nature through his own labor, man can rightfully lay claim to the products resulting therefrom as his own possessions.¹³² This was the essence of Locke's labor theory of value which constitutes the core of a modern theory of capitalism.

Civil society is only one step removed from the state of nature. Human nature remains essentially selfish in both milieux. Man is primarily concerned with the advancement of his own self-interest in each state. Therefore, whether in the state of nature or in civil society, man owes no affirmative obligation towards his fellow men to improve their economic conditions.

Within civil society, man must be free to do whatever he wants so long as he does not infringe upon the right of his fellow men to do the same. It is the purpose of government to determine by law the limits of

one man's freedom of action in relation to that of his fellow citizens in the event of conflict. But within these limited restrictions, man must remain free to pursue his own self-interest and happiness as he sees fit.

Locke developed out of Hobbesism a limited theory of government and as a corollary thereto a right of revolution when the sovereign transgresses those limitations placed upon his power. The sovereign cannot be absolute because he is a party to the social contract and subject to the laws of civil society. The citizens can enter into a state of war against a tyrannical sovereign because he is an aggressor yet do so without precipitating a Hobbesian state of nature/war among themselves. This is because the Lockean social contract can survive the dissolution of the government brought about by revolution.

b. *Rousseau, Bentham, Marx*

Lockean Hobbesism did not prove to be the definitive word on modern constitutional theory. An alternative philosophy starts with the premise that there is no such thing as a natural man with natural rights living in a state of nature and ruled by natural law. Rights are neither natural, imprescriptible, nor inalienable. Rights cannot be treated as an abstract Platonic form but can only be considered within the context of civil society. Man is a social creature entirely dependent upon civil society for his physical survival, moral development, and personal happiness. Therefore, man's enjoyment of rights is conditioned upon the performance of positive duties, not simply upon the mere abstention from negative harm. The primary purpose of government is to advance the common interest for the betterment of all. An individual must often forego the pursuit of his own self-interest for the good of others. Ideally, a citizen will achieve the fulfillment of his own desires through realization of the common good. If a citizen is unwilling to act towards this end voluntarily, however, the laws of civil society must force him to be altruistic. Failure to discharge his social duties not only justifies but usually requires a deprivation of rights. For the rights of man are ultimately conditioned upon the purpose of the state.

The seminal source for this theory of the state and its relationship to the individual is found in the writings of Jean-Jacques Rousseau and Jeremy Bentham. Rousseau explained his theory in terms of the concept of the general will. Bentham by the principle of utility. Yet the two theories are functionally similar in establishing the priority of social duty over individual right. Marx adopted Benthamite utilitarian principles and put them to the service of one segment of the Rousseauian general will—the proletariat. Rights are thus determined in accordance with calculations of utility designed to enhance the condition of the proletariat. Locke, on the one hand, and Rousseau, Bentham, and Marx, on the other, represent the philosophical archetypes for the debate over the proper relationship between fundamental

130 J. LOCKE, *THE SECOND TREATISE OF GOVERNMENT* IN *TWO TREATISES OF GOVERNMENT* (rev. ed. P. Laslett, 1963).

131 Laslett, *Introduction to id.* at 115, 16 & n.13.

132 *Id.* at 305, 327-44.

human rights and the requirements of social and state obligation currently raging between First World countries (capitalist and democratic) and Third World countries (developing and authoritarian) which are supported by Second World countries (communist and totalitarian) The fundamental issue is whether human rights exist prior to and independent from the needs of civil society especially in the matter of economic development

c Soviet and American Hobbesism

Hobbes wrote in a pre modern world still in the throes of the political and economic anarchy characteristic of feudal society There the basic structure of organization consisted of autonomous corporate entities such as the guilds the church and the nobility none of which was subordinate to the other or to the titular crown Together with the peasantry these entities co existed in an intricate pattern of vertical and horizontal relationships antithetical to and counterproductive of political economic and social integration unity and efficiency—in other words modernization The absolute and despotic powers of the one source of Hobbesist sovereignty was intended to remedy for all time the centrifugal tendencies intrinsic to corporate feudal society Thus modern nation states have accepted both in principle and in practice the Hobbesist prescription for one supreme locus of sovereignty within the state Witness for example the respective constitutional systems of the two ideological archetypes for modern nation states the Lockean capitalist democratic system and its Rousseauian/Benthamite/Marxist communist totalitarian rival

Article VI of the Constitution of the United States of America the so called Supremacy Clause¹³³ establishes the absolute supremacy of the federal government over its component state units The latter retain by the tenth amendment whatever powers are not explicitly delegated to the former or prohibited from the latter by other provisions of the Constitution¹³⁴ The fundamentality of this clause to the American constitutional system was forcefully upheld by the United States Civil War of 1861 to 1865

The system of checks and balances established by the Constitution was inspired by essentially Hobbesist considerations Federalist No 51 argued for the institution of a separation of powers or balance of power between the branches of the federal government in explicitly

¹³³ U S CONST art VI cl 2

This Constitution and the Laws of the United States which shall be made in Pursuance thereof and all Treaties made or which shall be made under the Authority of the United States shall be the supreme Law of the Land and the Judges in every State shall be bound thereby any Thing in the Constitution or Laws of any State to the Contrary notwithstanding

¹³⁴ U S CONST AMEND X "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States are reserved to the States respectively or to the people

Hobbesist terms¹³⁵ Of course Hobbes had definitively repudiated the doctrine of separation of sovereign powers because in his opinion any division of sovereign powers would inevitably degenerate into civil warfare¹³⁶ So pursuant to this Hobbesist dictate *Marbury v Madison*¹³⁷ established the principle that among the three branches of the federal government the Supreme Court of the United States is the final arbiter of the meaning of the federal constitution To be sure the sovereign powers of the United States government and *a fortiori* those of the states cannot infringe upon the Lockean natural rights of the citizenry delineated in the first ten amendments to the Constitution—the Bill of Rights Nevertheless the Supreme Court is the contemporary American incarnation of the Hobbesist sovereign *United States v Nixon*¹³⁸ provides a recent and quite dramatic demonstration of this fact

A function similar to the Supremacy Clause is performed by article 74 of the 1977 Constitution of the Union of Soviet Socialist Republics¹³⁹ Article 74 provides that all union laws run throughout all of the union republics and that in the event of a divergence between all of the laws of a union republic and an all union law the all union law shall prevail Pursuant to article 76¹⁴⁰ the union republics retain whatever powers are not specifically delegated to the U S S R government by article 73¹⁴¹ The functional equivalent of the U S Bill of Rights is Chapter 71¹⁴² of the 1977 Soviet Constitution which spells out the Basic Rights Freedoms and Duties of Citizens Yet it is made quite clear in article 59 that the enjoyment of rights and the exercise of freedoms by citizens of the Soviet Union are conditioned upon the performance of certain fundamental duties for the society as a whole¹⁴³

Unlike an American state however a Soviet union republic is given the right of free secession from the U S S R by article 72 of the 1977 Constitution¹⁴⁴ This right is more fictitious than real however or at least it has remained dormant in Soviet constitutional practice from

¹³⁵ HAMILTON OR MADISON *The Federalist No 51* in *THE FEDERALIST* 335-337 (Modern Library College ed n d)

¹³⁶ Hobbes *supra* note 3 at 140

¹³⁷ *Marbury v Madison* 1 Cranch 137 (1803)

¹³⁸ 418 U S 683 (1974) (Watergate tapes case)

¹³⁹ CONST art 74 (U S S R) *reprinted in* Soviet Union No 12 (333) 1977 (Supp) at 13

¹⁴⁰ The laws of the U S S R shall have the same force in all Union Republics In the event of a discrepancy between a Union Republic law and an All Union law the law of the U S S R shall prevail

¹⁴¹ CONST art 76 (U S S R) *reprinted in id* at 13 21 "Outside the spheres listed in Article 73 of the Constitution of the U S S R a Union Republic exercises independent authority on its territory"

¹⁴² CONST art 73 (U S S R) *reprinted in id* at 13 21

¹⁴³ CONST ch 7 (U S S R) *reprinted in id* at 13 18 20

¹⁴⁴ CONST art 59 (U S S R) *reprinted in id* at 13 20 "Citizens exercise of their rights and freedoms is inseparable from the performance of their duties and obligations"

¹⁴⁵ CONST art 72 (U S S R) *reprinted in id* at 13 20 "Each Union Republic shall retain the right freely to secede from the U S S R"

the foundation of the Soviet state until today.¹⁴⁵ And Soviet constitutional theory rejects the doctrine of separation of powers in favor of a doctrine of unity of powers. According to this latter principle Soviet state power in its totality is one and indivisible.¹⁴⁶ Hobbesism is quite explicit in Soviet constitutional theory and practice.

C The System

For Hobbes the states of the world exist in a state of nature tantamount to a state of war. Predictably in the Hobbesist system of international relations the lives of states should be solitary, poor, nasty, brutish and short.¹⁴⁷ Hobbes did differentiate however the state of nature among men from the state of nature among states by positing for the latter one vital distinguishing characteristic. But because they uphold thereby the industry of their subjects there does not follow from it that misery which accompanies the liberty of particular men.¹⁴⁸ Based upon an analogy to the human state of nature however Hobbes could have equally well concluded that universal and eternal warfare among states would lead eventually to mass impoverishment for the citizens of all states. Yet in Hobbes' era mercantilism not interdependence was the reigning ideology of international economics.

In the war of every state against every other state nothing is unjust. Force and fraud are in war the two cardinal virtues.¹⁴⁹ For Hobbes the phenomena of peace, morality and law exist only within civil societies, not before them, without them, or between them. International relations were blessed with none of these characteristics because there did not exist a common source of absolute power above the states which could compel reciprocal respect for the survival and prosperity of every state. Therefore in international relations power politics was natural, amoral and inevitable.

Power politics and war will prevail in international relations unless and until the states of the world enter into a multilateral social contract establishing a universal and absolute sovereignty with the power to impose its will for the common good. Because this seemed highly

145 For example, Lenin promised the right to secede to the various nationality groups of the Tsarist empire in order to win their support for the Bolsheviks during the 1917 revolution and the subsequent civil war that lasted until 1920. A. ULAM, *THE BOLSHEVIKS* 438-40 (1968). The 1923 U.S.S.R. Constitution proclaimed that each Soviet republic reserved the right of free withdrawal from the Union. CONST. of 1923 § 1 (U.S.S.R.). Yet when the Georgians revolted against Soviet rule in 1924 to affirm the principle of national self-determination, Stalin ruthlessly suppressed the treasonous inclinations of his own homeland with the full might of the Red Army. A. ULAM, *STALIN* 249 (1973).

146 *Osakwe, The Theories and Realities of Modern So. Int'l Constitutional Law. An Analysis of the 1977 U.S.S.R. Constitution* 127 U.P.A.L. REV. 1350 1411 (1979).

147 *Hobbes, supra* note 3 at 100.

148 *Id.* at 101.

149 *Id.*

improbable international relations were destined to remain a state of nature or war. Every state must protect itself by any means, either alone or in confederation with others, and therefore leagues between commonwealths over whom there is no human power established to keep them all in awe are not only lawful but also profitable for the time they last.¹⁵⁰ The creation of such confederations would result in the formation of a balance of power system for international relations. Institution of a balance of power system through conclusion of alliances would preserve a modicum of peace in international relations whereby states could pursue their mercantilist principles for the benefit of their bourgeois citizens. Although not ideal, this type of moderate balance of power system would be preferable to an all-out Machiavellian war.

Once such a system is established it might be expected that each state would follow the rules of the game for a balance of power system for the sake of self-preservation and well-being.¹⁵¹ In this type of moderate balance of power system the exercise of power politics would by nature be more Thucydidean than Machiavellian. Yet nothing could guarantee that each state would perceive its best interest to be served by maintenance of the balance of power system itself. For just as there are Machiavellian men in the human state of nature, so too there are Machiavellian princes in international relations. A Machiavellian prince would work for the utter destruction of the balance of power system and its replacement by a directive hierarchical international system,¹⁵² with himself at the pinnacle. *e.g.* Napoleon. In the unlikely event a Machiavellian prince was successful, a Hobbesist civil society would automatically come into existence and embrace that part of the world he had conquered. Universal peace and prosperity would be instituted at the point of the sword.

Most probably however a Machiavellian prince with pretensions for universal hegemony would be destroyed by the machinations of the balance of power system. In the process international relations would perform reconstitutive itself from a condition of incipient violence into a state of all-out warfare where extreme Machiavellian tactics would prevail. Yet in either case whether a moderate balance of power system

150 *Id.* at 177.

151 See M. KAPLAN, *SYSTEM AND PROCESS IN INTERNATIONAL POLITICS* 23 (1957) where the balance of power system is characterized by the following essential rules:

- 1 Act to increase capabilities but negotiate rather than fight.
- 2 Fight rather than pass up an opportunity to increase capabilities.
- 3 Stop fighting rather than eliminate an essential national actor.
- 4 Act to oppose any coalition or single actor which tends to assume a position of preponderance with respect to the rest of the system.
- 5 Act to constrain actors who subscribe to supranational organizing principles.
- 6 Permit defeated or constrained essential national actors to re-enter the system as acceptable role partners or act to bring some previously inessential actor within the essential actor classification. Treat all essential actors as acceptable role partners.

152 See *id.* at 48-50.

described by Thucydides or a revolutionary Machiavellian attack upon the very existence of the balance of power system power politics would remain the operative dynamic of international relations. Indeed whatever the configuration of the international system power politics will predominate until the system undergoes a fundamental metamorphosis into a supranational system in which the states create a common power to keep them all in awe.¹⁵³

D *Hobbes and the United Nations Charter*

The almost universal criticism of the United Nations Organization is that it cannot enforce its decisions upon recalcitrant state members. This objection assumes of course that the United Nations was really designed to do so in the first place and if it was that this function remains an appropriate task for the Organization to perform in the aftermath of the ascent to independence and U N membership of an enormous number of formerly colonized territories which collectively believe that the U N's primary emphasis should shift from military and security affairs to economic and social development. This critique of the United Nations is a reincarnated version of the Hobbesist thesis that if the will of the sovereign cannot be enforced then there is no sovereign. The United Nations cannot enforce the peace within the so-called commonwealth of nations and therefore states must remain in the Hobbesist state of nature or war. Since the United Nations cannot enforce international law then international law even if it might exist in name is essentially irrelevant to violent state conflicts over matters of vital national interest. These assertions however overlook or ignore a significant number of instances in which U N military operations have played a crucial role in preserving some semblance of peace in the world during the post war era. UNEF,¹⁵⁴ UNFICYP,¹⁵⁵ ONUC,¹⁵⁶ UNIFIL,¹⁵⁷ etc. The real problem does not seem to be that the United Nations cannot effectuate its will but that it does not formulate a united will on every particular crisis. At this point it would be worthwhile to explore these matters through a more detailed application of Hobbes' framework of analysis to the problems of contemporary international politics law and organizations. This task will illuminate the philosophical premises and constraints under which the United Nations operates and therefore create a better understanding of

153 Hobbes *supra* note 3 at 177

154 See R. BOWIE SUEZ 1956 (1974)

155 See T. EHRLICH CYPRUS 1958 1967 (1974)

156 See G. ABI SAAB THE UNITED NATIONS OPERATION IN THE CONGO 1960-1964 (1978)

157 See Council Calls on Israel to Quit Lebanon Establishes Interim Peace Keeping Force U N Monthly Chronicle Apr 1978 at 5 *Case Five Seems to be Holding Mr. Waldheim Reports* at 13 Council Approves Increase in Lebanon Peace Keeping Force from 4,000 to 6,000 June 1978 at 16 U N Peace Keeping Efforts in South Lebanon Commented as Mandate of Force Extended Oct 1978 at 17

its function and provide some criterion by which to evaluate its performance.

The nation states of the modern world live in a state of nature tantamount to a state of war. Their very existence is continually threatened by the relentless spectre of cataclysmic and instantaneous death from a pre-emptive strike by massive strategic and tactical nuclear weapons systems. Like men in the state of nature nation states are under a natural obligation to seek peace so long as this search does not jeopardize their security.¹⁵⁸ In order to assure their self preservation and well being states must mutually consent to the formation of a universal social contract that would thereby found a civil society under the aegis of a world government possessing a monopoly of military force. It will be the task of this Hobbesist sovereign to utilize military power in whatever fashion necessary to guarantee world peace. Only in this manner can human civilization survive.

1 *Charter Article 2(4) and the League of Nations Covenant*

Article 2(4) of the Charter attempts to end the Hobbesist state of war among the members of the Organization with the following words: "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state or in any other manner inconsistent with the Purposes of the United Nations."¹⁵⁹ Article 2(4) closed the loophole in the League of Nations Covenant articles 11(1),¹⁶⁰ 12(1),¹⁶¹ 13(4),¹⁶² 15(6),¹⁶³ 16(1)¹⁶⁴ whereby states retained a legal right to resort to war but only upon the fulfillment of certain conditions. At that time war had a technical legal meaning which although disputed encompassed a spectrum of action far narrower than force.¹⁶⁵ The seriousness of this gap in coverage by the Covenant became evident in the Sino-Japanese hostilities over Manchuria where neither party formally declared war upon the other in an effort to circumvent the establishment of jurisdiction over the dispute by the League Council.¹⁶⁶ Changing the

158 Cf. Hobbes *supra* note 3 at 104

159 U N CHARTER art. 2 para. 4

160 LEAGUE OF NATIONS COVENANT art. 11 para. 1 reprinted in BASIC DOCUMENTS OF THE UNITED NATIONS 295 298 (L. Sohn ed. 1968). League Covenant article 10 was triggered by external aggression or any threat or danger thereof. *Id.*

161 LEAGUE OF NATIONS COVENANT art. 12 para. 1 reprinted in *id.* at 295 299

162 LEAGUE OF NATIONS COVENANT art. 13 para. 4 reprinted in *id.*

163 LEAGUE OF NATIONS COVENANT art. 15 para. 6 reprinted in *id.*

164 LEAGUE OF NATIONS COVENANT art. 16 para. 1 reprinted in *id.* at 295 300. Article 17 created a special regime for dealing with a dispute between a member and a non-member or between states not members of the League.

165 See e.g. Wright, *Some Legal Aspects of the Far Eastern Situation* 27 AM. J. INT'L L. 509 510 (1933). Wright, *When Does War Exist?* 26 AM. J. INT'L L. 362 365 (1932).

166 But see LEAGUE OF NATIONS COVENANT art. 4 para. 4 reprinted in BASIC DOCUMENTS OF THE UNITED NATIONS 295 296 (L. Sohn ed. 1968). "The Council may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world. On the

trigger word from war in the Covenant to force in the Charter would counteract such a maneuver and more generally provide the new organization with *prima facie* competence to become involved at a much lower threshold of violence when the situation is more susceptible to peaceful resolution than full scale war

2 Charter Article 51 and the Kellogg Briand Pact

The Charter article 2(4) prohibition on the threat or use of force however is subject to the inherent right of individual or collective self defense recognized by article 51.¹⁶⁷ The official French version of the Charter refers to self defense as a *droit naturel*,¹⁶⁸ which provides a better indication of the Hobbesist origins and connotations of this doctrine even in a document as supposedly enlightened as the U N Charter Article 51 of the Charter closed a gaping procedural loophole left open in the coverage of international law by the Kellogg Briand Pact of 1928,¹⁶⁹ which in turn purported to close in part the war loophole left open in the League Covenant. By the Kellogg Briand Pact the states of the world agreed to renounce war as an instrument of national policy.¹⁷⁰ However during the negotiation of the Pact signatories made it quite clear that they reserved to themselves the right to resort to war in self defense in accordance with their own determination of the necessity to do so.¹⁷¹ These reservations belie the standard interpretation of the Kellogg Briand Pact as a naive utopian dream indicative of the

circumstances leading to the conflict, see League of Nations Assembly Report on the Sino Japanese Dispute reprinted in 27 AM J INT L L 119 (Supp 1932)
167 U N CHARTER art 51

Nothing in the present Charter shall impair the inherent right of individual or collective self defence if an armed attack occurs against a Member of the United Nations until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.
168 CHARTE DES NATIONS UNIES art 51

Aucune disposition de la présente Charte ne porte atteinte au droit naturel de légitime défense individuelle ou collective dans le cas où un Membre des Nations Unies est l'objet d'une agression armée jusqu'à ce que le Conseil de sécurité ait pris les mesures nécessaires pour maintenir la paix et la sécurité internationales.
169 See note 9 supra

170 Kellogg Briand Pact Aug 27 1928 art 1 46 Stat 2343 2345 46 T S No 796 94 L N T S 57 63 reprinted in 1928 (I) FOREIGN RELATIONS OF THE UNITED STATES 153 155
The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies and renounce it as an instrument of national policy in their relations with one another
171 See eg 1928 (I) FOREIGN RELATIONS LAW OF THE UNITED STATES 15 17 18 (France) *id* at 42 43-44 (Germany) *id* at 66 67 (Great Britain) France unsuccessfully proposed a draft anti war treaty specifically providing for recognition of the rights of legitimate self defense within the framework of existing treaties *id* at 32 33 The state right of self judgment could only be defeated by the unanimous agreement of League Council Members other than representatives of parties to the dispute LEAGUE OF NATIONS COVENANT art 15 par 7 reprinted in Basic Documents of the United Nations 295 300 (L Sohn ed 1968)

legalist moralist manner in which the Western democracies foolishly conducted foreign policy during the interwar period. What the governments gave away with one hand in the text of the treaty for public consumption the foreign offices took back with the other hand in the form of reservations for actual practice. The Kellogg Briand Pact represented an outstanding example of a universal propaganda campaign directed against the citizens of the world at the instance and with the express connivance of their respective governments. A decade later however the Western governments were trapped by the illusions they had created when their populaces proved unwilling to go to war. If anything they should be faulted for being too Machiavellian in the art of statecraft in concluding the Kellogg Briand Pact.

Under article 51 of the Charter a state preserves its inherent right of self defense but only until the Security Council has taken the measures necessary to maintain international peace and security.¹⁷² Under the Charter the Security Council not the state is the final judge of the legitimacy of actions allegedly taken in self defense. The implication is clear that continued threat or use of force by a member inconsistent with Security Council measures violates article 51 of the article 2(4) prohibition as well as the article 25 obligation to carry out the decisions of the Security Council.¹⁷³

3 Charter Articles 24(1) 2(6) 2(7) 43 and the Security Council's Monopoly of Violence

Article 24(1) of the United Nations Charter endows the Security Council with the primary responsibility for the maintenance of international peace and security.¹⁷⁴ However even if a state is not a member of the U N civil society and therefore from a Hobbesist perspective is still in a state of nature/war in relation to U N members the Security Council is not authorized to act against non members unless disruption of international peace and security is threatened or occurs.¹⁷⁵ This restriction represents a distinct moderation of the Hobbesist conception of international relations as a state of unmitigated warfare. Also in a manner functionally similar to the Supremacy Clause of the U S Constitution Charter article 2(7) permits the Security Council to intervene in matters essentially within the domestic juris

172 See note 167 supra

173 U N CHARTER art 5 The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter

174 *Id* art 24 para 1 In order to ensure prompt and effective action by the United Nations its Members confer on the Security Council primary responsibility for the maintenance of international peace and security and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf

175 *Id* art 2 para 6 The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security

diction of any state pursuant to the application of enforcement measures under Chapter VII¹⁷⁶

Unlike a Hobbesist sovereign however the U N Security Council does not command a monopoly of power The military agreements contemplated by article 43 have not been concluded But the states comprising the membership of the Security Council and in particular the five permanent members China France the United Kingdom the United States and the Soviet Union as a group possess an overwhelming preponderance of military force—without question enough military power to impose their collective will upon the rest of the world The effective purpose of the Security Council is thus to provide a source of legal and institutional legitimacy recognized by the entirety of the international civil society created by the U N Charter whereby the major military powers can rule the world to the extent they can mutually agree to do so and in addition acquire the benefits accruing from having such rule accepted as legitimate by U N members Of course the great powers or even the United States and the Soviet Union bilaterally could agree to impose their will upon the rest of the world either jointly by a condominium arrangement or severally through division of the world into spheres of influence The crucial distinction is that U N members have formally consented to be ruled by the Security Council whereas pure great power fiat not expressed within the U N apparatus possesses no claim to legitimacy The legitimacy of the Security Council's absolute rule when agreed upon flows from the prior consent of those governed This is an explicitly Hobbesist notion

4 *Charter Article 27(3) and the Veto Power*

The real impediment to the Security Council ever constituting a genuine Hobbesist sovereign is the veto power granted by Charter article 27(3) to the five permanent members over substantive matters¹⁷⁷ According to Hobbes the sovereign must speak with a voice that is not subject to the vicissitudes of any individual member¹⁷⁸ It is obvious therefore that the U N Security Council was never intended to be a

¹⁷⁶ *Id.* art 2 para 7

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter but this principle shall not prejudice the application of enforcement measures under Chapter VII¹⁷⁷ *Id.* art 27 para 3

Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members provided that, in decisions under Chapter VI and under paragraph 3 of Article 52 a party to a dispute shall abstain from voting

On the problem of the double veto see L SOHN CASES ON UNITED NATIONS LAW 148 231 (2d ed rev 1967)

¹⁷⁸ Hobbes *supra* note 3 at 128

Hobbesist sovereign Consequently it is inappropriate to evaluate the performance of the Security Council at maintaining international peace and security by Hobbesist criteria namely whether it can enforce the peace absolutely at all times under all circumstances and against all potential violators Any assertions hopes beliefs or illusions to the contrary that were generated before during or after the San Francisco Conference were completely unfounded and unrealistic A simple comparison of *Leviathan* with the text of the U N Charter would reveal this

When evaluated in accordance with the dictates of the *Leviathan* however the U N Security Council has operated much more effectively than might have been predicted on that basis At the time of the U N's foundation the most that could have been reasonably expected was that the Security Council would preserve the uneasy wartime alliance among the great powers into the post war world upon the basis of its fundamental underlying condition—unanimity To the degree that the permanent members could maintain or at least selectively reinstitute their Second World War coalition to handle post war international crises the U N Security Council would provide a mechanism to enforce the peace in a manner accepted as legitimate by the remainder of the international civil society Viewed from this perspective the founders of the U N were certainly not utopian or naive but, to the contrary as hard headed and realistic about the peace keeping potential of the United Nations as they could be under the circumstances¹⁷⁹ A Security Council without a great power veto would have been a non starter And there was always the possibility that once brought into existence the U N Organization would generate enough momentum to transcend some of its original limitations That possibility has been partially realized in the post war world e.g. the United Nations Peace Resolution¹⁸⁰ But failure to achieve a mere potentiality should not detract from the non Hobbesist significance of the Security Council and in general of the United Nations and public international law as well

5 *Breaking Out of the Circularity of Hobbesist International Legal Positivism*

Elsewhere I have suggested that the Hobbesist or legal positivist approach to determination of the usefulness of international law and international organizations for the preservation of peace is disutile and should be replaced by a functional approach concentrating upon the roles international law and international organizations actually play during international crises involving the threat or use of force by states¹⁸¹ A Hobbesist analysis of the U N Charter merely strengthens

¹⁷⁹ See generally I CLAUDE POWER AND INTERNATIONAL RELATIONS 155 204 (1962)

¹⁸⁰ G A Res 377 5 U N GAOR Supp (No 20) 10 U N Doc A/1775 (1950)

¹⁸¹ Entebbe *supra* note 11

the conclusion of that essay. What must be done is to analyze the ability of international law and international organizations to contribute to the successful management of international crises and the peaceful resolution of the underlying disputes. The emphasis must be upon the operational process of management not upon the Hobbesist promulgation and enforcement of rules. The typical Hobbesist objections to the Security Council the United Nations and international law in general simply obscure their real vital functions and hinder the development of a better understanding of the nature of international crises and the means whereby they can be prevented forestalled and controlled.

To criticize the relevance of international law and international organizations when it comes to the threat or use of force in Hobbesist terms is to commit the cardinal methodological sin described by international political scientists as ignoring the level of analysis problem. Although Hobbesism might prove to be a useful analytical tool for understanding the nature of domestic politics law and government this must not result in its automatic application to international politics law and organizations because the operational dynamics of the international level of analysis are essentially different from those of the domestic level of analysis. Commission of such a fundamental methodological error would so distort whatever substantive conclusions are obtained as to render them severely defective if not meaningless. This is especially true when it is realized that the three Hobbesist states of nature/war (*ie* the New World civil war international relations) were defined so as to consist of simple negativizations of the underlying conditions of civil society. A Hobbesist analysis of international law and international organizations creates an analytical circularity. For Hobbes the law among nations was by explicit definition the law of nature which essentially amounted to the antinomian law of power politics.

International political scientists are guilty of ignoring the level of analysis problem in their collective assertion that international law and international organizations are essentially irrelevant to violent conflict between states over matters of vital national interest because their conception of relevance is determined by Hobbesist criteria. Like wise since they are by training good Hobbesist legal positivists public international lawyers commit a similar mistake when they tacitly concede the issue on the irrelevance of international law to international crises and concentrate instead upon the compliance by states with international law in other aspects of international relations. The application of Hobbesism to law on the international level of analysis by both groups confuses more than it clarifies. Therefore Hobbesism must be abandoned and replaced by a non Hobbesist approach to the study of international law and international organizations.

Here the writings of Professor Lon Fuller of the Harvard Law

School become apposite¹⁸² for they indicate that a system of law is most properly understood as creating a facilitative framework of rules in order to permit and enhance the quality of interaction among its participants. Law must not simply be interpreted in its Hobbesist legal positivist sense as the making breaking and enforcement of rules.¹⁸³ Any system of law no matter how imperfect usually proves to be more beneficial and therefore preferable to each participant than the existence of no rules at all. This argument has been developed at length by the Harvard political scientist Thomas Schelling through the application of game theory to conflict situations.¹⁸⁴ The reason why two cars approaching each other on a narrow mountain road obey the rules of the road by each driving on the right hand side supplies an excellent analogy as to why states will follow international law in time of crisis.¹⁸⁵ The rules of international law are created by states for the express purpose of serving and advancing their respective national interests. Useless impractical or dangerous rules will not be adopted by states to regulate their relations in the first place. Almost by definition there should be a substantial if imperfect congruence between the requirements of international law and the dictates of *raison d'etat*. Adherence to the rules of international law in time of crisis often proves to be in the best interest of a state.

VI ROUSSEAU AND THE GENERAL WILL

On a philosophical level Hobbes served as the starting point for the Lockean natural right tradition that has become an identifying characteristic of the Anglo American heritage of government as well as the Benthamite utilitarian tradition which has found much greater acceptance among the legal systems of continental Europe and their offshoots including the communist world. Yet twentieth century political society as a whole has partially accepted and partially rejected the teachings of Hobbes when applied both to the domestic and to the international spheres of political activity. On the domestic level of analysis modern political society has embraced Hobbes postulated need for one source of sovereignty *vis à vis* constituent units but definitively abjured the notion that the sovereign should possess de jure powers over its citizens. On the international level of analysis political society has accepted the need for one absolute source of power for the maintenance of international peace and security yet it has subjected that sovereign to the vicissitudes of the veto. A major intellectual force

182 See e.g. L. FULLER, THE MORALITY OF LAW (rev ed 1969); Fuller, *The Forms and Limits of Adjudication*, 92 HARV L. REV. 353 (1978); Fuller, *Law as an Instrument of Social Control and Law as a Facilitation of Human Interaction*, 1975 B.Y.U. L. REV. 89; Fuller, *Mediation—Its Forms and Functions*, 44 S. CAL. L. REV. 305 (1971).

183 See H. STEINER & D. VAGTS, TRANSNATIONAL LEGAL PROBLEMS 1-32 (2d ed 1976).

184 See T. SCHELLING, THE STRATEGY OF CONFLICT (1960).

185 *Accord id* at 300.

responsible for this somewhat schizophrenic attitude towards pure unadulterated Hobbesism was Jean Jacques Rousseau.¹⁸⁶

Rousseau wrote in direct opposition to Hobbes especially the latter's notion that political society must be predicated upon the destructive elements of the human personality and therefore upon the dynamics of power politics. To the contrary for Rousseau civil society was responsible for the negative aspects of the human condition. Rousseau stood in the ranks of Plato, Christ and later Marx who regarded man with a vision of life based upon love, justice, communal solidarity and progress towards some form of ultimate salvation. On the other hand Rousseau's concept of the general will subsequently came to permeate the political consciousness of modern men to such a degree that they erected their national counterparts of his general will into the ideological justification for the very life purpose and sacrosanctity of their respective nation states and as a corollary of the nation state system. The nation state and the international system are legitimate because they best effectuate the general wills of the various peoples of the world. Conversely national self-determination becomes a fundamental principle of international politics and international law because it alone can permit the legitimate foundation and expression of a general will for the people concerned.

A Man

The starting point of Rousseau's political philosophy was a benign conception of human nature akin to that of Plato and Jesus Christ and antithetical to that of Thucydides, Machiavelli and Hobbes. Rousseau believed in the essential goodness and infinite moral perfectibility of mankind in relative rather than absolute terms. Human nature progressively moves towards a higher stage of morality and humanity throughout the course of historical evolution though it is destined never to achieve final perfection within history.¹⁸⁷ Man's innate and irrepressible desire for perfection impelled him to leave the Rousseauian mythical state of nature which in comparison to that of Hobbes was a veritable Garden of Eden.¹⁸⁸ Once mankind had forsaken

the Rousseauian state of nature it could never return.

For Rousseau mankind's original condition of nature was not a Hobbesian state of warfare but a Lockean condition of peace. Man cannot return to that original state of nature however because he has evolved to the final stage of creating civil societies. The Rousseauian social man is therefore a fundamentally different animal from the Rousseauian natural man. The natural man was essentially good, the civil man has been corrupted. By contrast the Hobbesist and the Lockean man were essentially the same creature in both the natural and the civil conditions—*ego selfish*. For Rousseau the evolutionary progression of the human race from a state of nature to civil society resulted in a mutual reduction in the general level of happiness.¹⁸⁹

B The State

The basically ignorant but happy men who populated the Rousseauian state of nature entered a social contract to found a civil society whereby they agreed to alienate their natural freedom in exchange for civil freedom. Yet whereas Hobbes had rejected the notion that real human freedom can exist within civil society, Rousseau believed that these two desiderata were not mutually exclusive but could be achieved simultaneously and harmoniously through the proper foundation and operation of what he called a general will within the civil society.¹⁹⁰ All citizens in civil society as a collectivity form the source for emanation of the general will. In other words the citizenry is the Rousseauian sovereign.

The general will is formed only with regard to matters which are general in nature as opposed to those which are merely of particular interest.¹⁹¹ The precise content of the general will is decided by majority vote of the citizens but only upon absolute fulfillment of three express conditions: (1) everyone must vote,¹⁹² (2) all votes must be counted,¹⁹³ and (3) each citizen must vote according to what he believes to be in the best interest of all citizens rather than to further his own personal interests except to the extent that this necessarily occurs indirectly through advancement of the interests of civil society as a whole.¹⁹⁴ The non fulfillment of any one of these requirements vitiates the fundamental legitimacy of the vote as an expression of the general will. Even the unanimous yet conditionally deficient vote of all mem-

¹⁸⁶ *Primitivism of Rousseau's Discourse on Inequality* 21. MODERN PHILOLOGY 165 (1923) (four evolutionary stages in Rousseau's state of nature).

¹⁸⁹ J. J. ROUSSEAU, DISCOURSE ON THE ORIGIN AND FOUNDATIONS OF INEQUALITY AMONG MEN IN THE FIRST AND SECOND DISCOURSES 77, 176-81 (R. Masters ed. 1964).

¹⁹⁰ See generally, SOCIAL CONTRACT *supra* note 186.

¹⁹¹ *Id.* at 74-78.

¹⁹² *Cf. id.* at 70 & note.

¹⁹³ *Cf. id.*

¹⁹⁴ *Cf. id.* at 72-74.

¹⁸⁶ See e.g. J. J. ROUSSEAU, THE FIRST AND SECOND DISCOURSES (R. Masters ed. 1964); J. ROUSSEAU, THE GOVERNMENT OF POLAND (W. Kendall trans. 1972); J. J. ROUSSEAU, *Letter to M. D'Alambert on the Theatre in Politics and the Arts* (A. Bloom trans. 1960); J. J. ROUSSEAU, THE SOCIAL CONTRACT (Penguin Classics ed. 1968) [hereinafter cited as SOCIAL CONTRACT]. See also E. CASSIRER, THE QUESTION OF JEAN JACQUES ROUSSEAU (P. Gay trans. & ed. 1963). See generally, ESSAYS IN THE HISTORY OF POLITICAL THOUGHT 231-61 (I. Kramnick ed. 1969); HOBBS AND ROUSSEAU 233-497 (M. Cranston & R. Peters eds. 1972); *Jean Jacques Rousseau* 28 YALE FRENCH STUDIES (1961-1962).

¹⁸⁷ See J. J. ROUSSEAU, DISCOURSE ON THE ORIGIN AND FOUNDATIONS OF INEQUALITY AMONG MEN IN THE FIRST AND SECOND DISCOURSES 77, 114-15 (R. Masters ed. 1964) (Rousseau's footnote omitted).

¹⁸⁸ See *id.* at 101-41. See also De Jouvencel, *Rousseau the Pessimistic Evolutionist* in ESSAYS ON THE HISTORY OF POLITICAL THOUGHT 233 (I. Kramnick ed. 1969); Lovejoy, *The Supposed*

bers of civil society would not qualify as a manifestation of the general will but only as an expression of the will of all which by definition lacks the essential legitimacy of the general will.¹⁹⁵ Thus for Rousseau radical democratic egalitarianism within civil society was not enough to ensure the existence of a legitimate system of political rule. In addition the populace must be basically altruistic and other regarding not self interested and other dominating. Much as it did in the Platonic republic communal solidarity became the cornerstone of the Rousseauian civil society. This fundamental requirement could be achieved by virtue of the intrinsic benevolence of human nature brought into political life through civic education.

For Rousseau the general will is the perfect incarnation of popular democracy and the very source of its unchallengeable legitimacy is that it is created by the altruistic participation of all people concerned and affected. Furthermore the need for a general will within the Rousseauian civil society becomes a primary reason why citizens have rights. As a member of civil society each individual citizen must possess certain and equal fundamental rights derived from his essential dignity as a moral and perfectible human being in order to render meaningful his role in the determination of the general will.

Although the general will is decided by individual citizens possessing such rights once the general will is specifically determined on fundamental matters it assumes an omnipotent identity of its own independent of and superior to the particular will of any one person or group of people. Once extant the Rousseauian general will becomes the democratized version of the Hobbesist absolute sovereign and as such it reigns supreme over all political economic and social relations within civil society.¹⁹⁶

Although Rousseau accepted Hobbes' argument in favor of one source for absolute sovereignty within civil society he emphatically repudiated the latter's asseveration that the sovereign must also exercise despotic and tyrannical powers over its subjects. To Rousseau the sovereign must be benevolent and well intentioned even when dealing with opposition. Because men are imperfect though perfectible Rousseau envisioned the possibility of the general will coming into conflict with the individual wills of men. Nevertheless these confrontations would be few in number politically almost immaterial and readily resolvable to the satisfaction of both the collectivity and the individual involved primarily because all men are essentially good or ultimately wish to be good.

In the event of such a clash however the tangible manifestations of the general will that is the laws of civil society will effectively force

¹⁹⁵ *Id.* at 72-73.

¹⁹⁶ See generally *id.* at 69-80.

men to be free.¹⁹⁷ As emanations from the general will the laws would compel selfish recalcitrants to act in accordance with the dictates of the general will which they had already voluntarily created accepted and imposed upon themselves through participation in that original foundation of the social contract. But even then the laws of civil society would only do what was in the best interests of the defaulting citizen—merely push him to achieve his destiny as a morally perfectible human being. The exercise of power within the Rousseauian civil society assumed a magnitudinally gentler tenor and more beneficent function and purpose than in the Hobbesist commonwealth. Although absolutely supreme the general will is not a tyrannical despot but more like a loving father who mildly chides his erring children and benevolently leads them back to the path of righteousness.

Hence to a great extent Rousseau was responsible for the partial rejection and the partial acceptance of Hobbesism by contemporary political thought. Rousseau bifurcated Hobbesism to extract and preserve the fundamentality of the phenomenon of one source for absolute political sovereignty yet together with Locke eliminated from Hobbesism the idea that this sovereign must perforce possess despotic and tyrannical powers. As the democratized and humanized version of the Hobbesist absolute sovereign the Rousseauian general will gained universal acceptance as the theoretical archetype for the constitutional organization of the nation states of the modern world.

Through creation of the general will and the necessary but engaging consequent phenomenon of forcing men to be free through law Rousseau thought he had resolved the Hobbesist dilemma of modern man generated by the apparent inescapability of domination within a civil society which was nevertheless crucial for man's existence. For his own material and moral development man must enter civil society and subordinate himself to the collectivity of all other men in the general will. But irrespective of this abstract type of domination so long as man is not subordinate to any single man or to any particular group of men organized into factions,¹⁹⁸ he remains free even while living within civil society and without the state of nature. Since society in general is dimensionally less personal than individuals in the particular Rousseau hoped that through transformation of the ultimate locus of political power and legitimacy from the particular wills of individuals or groups to the democratized general will of civil society he had rendered the exercise of power sufficiently impersonal so that the citi-

¹⁹⁷ *Id.* at 64. See also Plamenatz, *Ce Qui Ne Signifie Aut e Chose Sinon Qu'On Le Force* *D'Etre Libre* in HOBBS AND ROUSSEAU 318 (M. Cranston & R. Peters eds. 1972).

¹⁹⁸ Rousseau's main discussion of factionalism can be found in SOCIAL CONTRACT *supra* note 186 at 73-74. Rousseau recognized that his ideal conditions for the generation of the general will might not be historically realizable so he argued that under certain circumstances it might be possible to have a general will emanate from a civil society where men are organized into factions, thus in effect isolating his fundamental rule against selfishness.

zen could properly regard himself as free even in the face of explicit laws which paradoxically force him to be free in case of transgressions. Indeed the laws due to their link to the general will became not an obstacle to individual fulfillment and freedom but one of the chief instruments for achieving social solidarity and personal liberty. Because in Rousseau's civil society each man is subject only to the generality of all other men and not to the particularity of individual men all men can be free and the domination which Hobbes postulated as essential for modern civil society disappears. The Rousseauian general will effortlessly transcended the existential choice between life and freedom presented to modern civil society in *Leviathan*.

Rousseau did not definitively resolve however the Hobbesist dilemma posed by the alleged centrality of domination to civil society. Rousseau merely transmuted the source of domination from one political locus to another. Although in Rousseau's state men are not subordinate to the tyranny of other men in particular they are nevertheless dominated by all other men in general as represented in the form of the general will. Domination still persists in civil society even if the Rousseauian variant of general domination as opposed to the Hobbesist version of particular and despotic domination is reputedly beneficent and in the best interest of each citizen. The laws will still force the citizen to be free whether he likes it or not. Rousseau never satisfactorily dissipated the latent tension within his theory between the fundamental rights of the individual as a human being and the sacred rights of civil society embodied in the general will. Hence the theoretical debate over whether Rousseau was a liberal democrat¹⁹⁹ or a prophet of the modern totalitarian state²⁰⁰ rages in academic circles without progress towards settlement.

It is apparent that the general will premised upon the elemental goodness and moral perfectibility of human nature is the democratic incarnation of the Hobbesist sovereign which was originally constructed upon the basic notion of man's natural propensity for domination and the consequent need for power politics. This synthesis of ideas drawn from antagonistic schools of political thought has pervaded the consciousness of modern man and appears at the core of his laws institutions and philosophies of government in two forms: Hobbesist Lockeanism or Hobbesist Rousseauism in Anglo American or European

199 See e.g. E. CASSIRER, *THE QUESTION OF JEAN JACQUES ROUSSEAU* (P. Gay trans. & ed. 1963); CRANSON, *INTRODUCTION TO SOCIAL CONTRACT*, *supra* note 186, at 9; KATZ, *ASPECTS OF FOUR SEASONS' POLITICAL THOUGHT*, in *ESSAYS IN THE HISTORY OF POLITICAL THOUGHT* 244 (I. Kramnick ed. 1969).

200 See e.g. L. CROCKER, *ROUSSEAU'S SOCIAL CONTRACT* (1968); CROCKER, *INTRODUCTION TO J. J. ROUSSEAU THE SOCIAL CONTRACT AND DISCOURSE ON THE ORIGIN AND FOUNDATION OF INEQUALITY AMONG MANKIND* at vii (L. Crocker ed. 1967); CROCKER, *THE RELATION OF ROUSSEAU'S SECOND DISCOURSE AND THE CENTRAL SOCIAL* 51 (ROMANIC REV. 33 (1960)); McADAM, *ROUSSEAU AND THE FRIENDS OF DESPOTISM* 74 (ETHICS 34 (1963)); McMANNERS, *THE SOCIAL CONTRACT AND ROUSSEAU'S REPLY AGAINST SOCIETY* in HOBBS AND ROUSSEAU 291 (M. Cranston & R. Peters eds. 1972).

liberal democratic states and a Rousseauian Marxist Hobbesism in their totalitarian counterparts. This accounts for the similarities in the constitutional structures of their respective archetypes as analyzed earlier.

This interbreeding of essentially incompatible and irreconcilable ideas has produced the innumerable and fundamental contradictions paradoxes dilemmas and problems characteristic of both the modern liberal²⁰¹ and totalitarian²⁰² theories and practice of government. Law, politics and rights. The competing traditions of Rousseau, Plato, Christ and Marx on the one hand and Hobbes, Locke, Thucydides and Machiavelli on the other strenuously pull at the inner fabric of social life in all modern nation states and at the web of relations within the nation state system. There can be no answer to any question because the questions are premised upon inconsistent assumptions of the nature of man and the purpose of society. Human nature is evil or good because it does or does not seek to dominate or assist other men. Society is good or evil because it does or does not reflect or perfect human nature. Government is good or evil because its laws do or do not preserve or improve society. Law strives to legitimate something that cannot be legitimated—power relationships. The power relationships of society are a product of the human endeavor. And modern man cannot escape civil society to an idyllic state of nature. Modern man is trapped within the circularities produced by the schizophrenias of his own philosophical speculations.

C The System

The best analysis of Rousseau's conception of international relations and its differences from that of Hobbes was written by Stanley Hoffmann.²⁰³ To build upon Hoffmann's analysis modern political realists are in basic agreement with Rousseau on the following points:

- 1 the non existence of a general society of mankind
- 2 the nation state system exacerbates conflict
- 3 international commerce does not breed peace and interdependence can easily lead to competition
- 4 international law is either ineffective or irrelevant to international hostility
- 5 states are and will be unwilling to guarantee the peace through the establishment of international organizations

Once again adhering to Hoffmann's analysis modern political realists disagree with Rousseau's other assertions on international affairs and make the following points:

201 See e.g. R. UNGER, *KNOWLEDGE & POLITICS* (1975).

202 See e.g. H. ARENDT, *THE ORIGINS OF TOTALITARIANISM* (2d enlg. ed. 1958).

203 S. Hoffmann, *Rousseau on War and Peace*, in *THE STATE OF WAR* 54 (S. Hoffmann ed. 1965).

- 1 war is not essentially a social institution because war simply reflects a basic human drive for domination
- 2 the balance of power can restrain international conflict
- 3 it is inevitable for a state to conduct a nationalistic foreign policy
- 4 it is impossible for states to achieve autonomy isolation and autarky

Because according to Rousseau the very intercourse of nations breeds conflict²⁰⁴ then the balance of power the threat or use of force and power politics will remain permanent features of international relations

VII MODERN POLITICAL REALISM

A *The System*

What Rousseau accomplished was the accommodation of a Hobbesist theory of power politics to the nationalistic popular and democratic realities of the emerging modern nation state on the domestic level of analysis. The modern school of political realism simply perfected the work commenced by Rousseau through accommodation of a theory of power politics to the political realities of the twentieth century nation state system on the international level of analysis. The modern political realists started with the Western philosophy of power politics that had evolved from Thucydides through Machiavelli and Hobbes nationalized popularized democratized and ameliorated the philosophy and presented it to modern decisionmakers as the fundamental indicator for the conduct of foreign affairs in the guise of euphemistic conceptualizations such as national interest national security and the balance of power. In the process the modern political realists modernized the theory of power politics and rendered power politics strikingly relevant and useful to contemporary international affairs.

1 *The Balance of Power*

Despite the veneer of popular democratic and humanistic coating sufficient to render modern political realism palatable it remains essentially Machiavellian in substance with one fundamental exception. In a world where nation states can mobilize the support of their entire populace for advanced technological warfare modern war became absolute in its participation instrumentalities objectives and devastation even before the development of nuclear weapons (e.g. the First and Second World Wars) and with the advent of massive nuclear weapons installations even conventional warfare or international crises can easily degenerate into absolute suicide for all nation states. Modern political realists correctly understood that the phenomenon of total

warfare in an advanced industrial and nuclear age precludes the implementation of Machiavellian power politics to its fullest extent in international politics if world civilization is to persevere. Consequently instead of adopting the Machiavellian prescription for destruction of the balance of power modern political realists incorporate into their respective theories of politics a belief in the fundamentality of the balance of power system to the preservation of world peace. In this respect they follow in the tradition of Thucydides' modified version of power politics.²⁰⁵ Modern political realists had placed before them several historical examples of the fate suffered by modern revolutionary leaders who sought to become continental or universal Machiavellian princes (e.g. Napoleon and Hitler) and the tragic consequences their impossible dreams entailed for both their own people and mankind. These lessons taught the modern political realists that Machiavellianism must be contained within the balance of power system extant among the nation states of the contemporary world.

From a longterm perspective however pursuit of power politics will inevitably work towards undermining the balance of power system through constant recourse to the threat or use of force in international relations. As a matter of theory power politics recognizes that at some point in time hostilities between major actors and even a systemic war will become necessary in order to preserve the balance. Unfortunately another world war is a luxury mankind cannot afford in a thermonuclear age. Yet power politics the balance of power and war are essentially inseparable because they are different facets of the same fundamental phenomenon: violence. Power politics as a philosophy of international relations is indeed premised upon the Machiavellian assumption of an existential necessity for resort to violence in order to accomplish its ultimate objectives. By its very nature power politics requires its adherents to employ violence against their putative adversaries thus trapping mankind in a cycle of force and counterforce from which it cannot escape.

Of course one can reject the inevitability of war arising from the pursuit of power politics by postulating the existence of some sort of invisible hand that will miraculously maintain the balance of power system among competing states by ensuring that their ineluctable recourse to violence will somehow fall short of global warfare because of considerations of rational self interest. Even accepting this farfetched assumption—which fatally places too much reliance upon the ability of modern man to control the international political environment—power politics as a philosophy of international relations tells a foreign policy

²⁰⁵ Hans Morgenthau also appears to have accepted the basic Thucydidean distinction as to the optimal conduct of domestic politics. It is thus understandable how Morgenthau could author both the cynically realistic *POLITICS AMONG NATIONS* (1943) and the utopian idealistic *THE PURSUIT OF AMERICAN POLITICS* (1960).

decisionmaker nothing specific about how real issues problems or crises of international politics should be handled either in the present or for the immediate and distant future. Power politics presents no substantive prescriptions for the day to day conduct of foreign affairs. All that power politics recommends is a series of *ad hoc* calculations of national self interest and power aggrandizement at the direct expense of other actors without much concern as to how these independent decisions should be integrated into a unified coherent and consistent overall approach to foreign affairs except perhaps for its somewhat vacuous injunction that the balance must be preserved at all costs. Power politics cannot serve as a useful theory for the conduct of foreign policy decisionmaking though to be sure the reality of power itself must never be ignored in the formulation of a constructive alternative.

2 *The National Interest*

In the contemporary international political environment described by modern political realism the rudimentary concept which was first revered then sanctified later deified and finally anthropomorphized is that of the national interest defined in its most modest form as the territorial and institutional integrity of the nation state.²⁰⁶ Accustomed to the total predominance of the general will upon the domestic scene citizens of the nation state desire to see their nationalized general will prevail to at least this minimal extent in the international system. But since the national interest is the ideological counterpart to the Rousseauian general will in international affairs it becomes the absolute good of international relations for the nation state concerned and this absolute good can tolerate justify and even demand the application of absolute evil in order to obtain its ends. Here morality and survival once again coalesce and in the process power politics receives its modern superficial justification. Because of its derivation from the general will which *a fortiori* is the highest moral principle in domestic politics the national interest emerges as the highest moral principle in international politics and the apparent dichotomy between realism and idealism disappears. Like Machiavelli the modern political realists replaced and debased the traditional meaning of conventional morality by imparting to that term an existential definition suitable to the nation state: the absolute evil of power politics is now morally acceptable if not in fact absolute good so long as it is perpetrated in the cause of the national interest/general will. Through the concept of the national interest modern political realism has seemingly resolved the crucial psychological dilemma between what is good and what is expedient in an international system composed of nation states. Extreme Machiavellian instrumentalism is not abhorred and condemned but instead is

embraced and proclaimed as the ultimate fount of political salvation in a modern existential world still stunned and staggering after the rude destruction of its self imposed delusions of a second and better life in the hereafter by Machiavelli himself.

3 *Public Opinion*

Yet the existential need to pursue the national interest in international politics is not a license to act immorally in the conventional sense of that word. Political realists will point out that the moral implications of political decisions in international relations must be considered because affairs between governments of nation states eventually affect the human dignity of their respective citizens. But this rationale is not controlling for realists advise the avoidance or discarding of a conventionally immoral foreign policy primarily only when it is not in the national interest. A blatantly immoral foreign policy in the post Hitlerian world would definitely have an unfavorable effect upon fellow nation states whose adverse responses will bear a direct relationship to the gravity of the offensive conduct and thereby impact detrimentally upon the offending nation state (*e.g.* the deterioration of the moral and political leadership of the United States in the estimation of the entire world including itself after the Vietnam debacle). An immoral foreign policy might also weaken the internal social fabric of the nation state to the detriment of its power potential and freedom of action in the international arena for in the face of vigorous domestic opposition or sometimes even in the absence of active domestic support it becomes extremely difficult for a government to sustain an immoral foreign policy. Witness the internally disintegrative effects generated by domestic opposition to American military involvement in Indochina beginning in the late 1960's with the McCarthy movement reaching a crescendo with the Cambodian incursion in 1970 and finally culminating in ignominious defeat and complete U.S. withdrawal in the spring of 1975. By that time there was no way President Ford could have mustered enough domestic support to reinvoke the United States to the extent necessary to save the Thieu regime.

But if such an instrumental approach to morality is strictly applied it follows that when an immoral foreign policy is thought to be definitely within the national interest and the necessary degree of public support for it can be successfully garnered then the national interest will be effectively pursued irrespective of its moral implications. Conversely an ideological objective might very well be pursued despite significant strategic and geopolitical disadvantages because it is required by the dictates of the national interest/general will (*e.g.* anti communism in Vietnam). For the highest moral principle in international politics is and will remain the national interest/general will.

²⁰⁶ For a good critique of the concept of national interest see M. KAPLAN, SYSTEM AND PROCESS IN INTERNATIONAL POLITICS 147-65 (1957).

4 *The Nationalistic Morality of Power Politics*

Modern political realism is important to the intellectual history of power politics not only because it has adapted power politics to the contemporary international political system composed of nation states but also because unlike Thucydides, Machiavelli, and Hobbes the modern realist imputation of a nationalistic definition to morality achieved a psychic equilibrium acceptable to the conscience of its proponents. Political realism generated a psychological justification for the application of pure power politics to an international political environment composed of nation states that would appeal to the psyche of modern man because of its proclivities to alleviate at least superficially the natural dynamic tension between the realist and idealist elements of the human personality. Because a citizen considers his nation state to be the political manifestation of the Rousseauian general will he believes in the necessity of power politics to protect that nation state against both its internal and external enemies. The amount and extent of power politics applied against its own citizens by a nation state depends upon the particular type of government chosen by the general will to conduct its foreign and domestic affairs with variations running between the two reputed extremes of liberal democracy and communist totalitarianism. But the amount and extent of power politics exercised by any one nation state against another nation state and the citizens thereof is independent of its particular type of government. In international politics all governments, whether democratic, totalitarian, or any other type, pursue what they believe to be in the best interest of their respective nation states with equal vigor and by identical methods—*i.e.* power politics. With a modern theory of political realism observers, students, and decisionmakers of international politics can all rationally justify the invocation of power politics in the name of the national interest. Thus in addition to the fact that the theory of political realism might conceivably be historically accurate, it also represents a fantastic psychological rationalization of universal political significance. Modern political realism invented the candy coating of national interest/general will necessary to enable twentieth century decisionmakers to swallow the poisonous pill of power politics.

B *The State*

Modern political realists have been severely criticized for their collective fixation upon the nation state as the fundamental unit of analysis for international political science. For example, James Rosenau enthusiastically hailed the demise of the nation state as a political entity and confidently prophesied the advent of the penetrated sys-

tem.²⁰⁷ Rosenau affirmed the proposition that the difference between national and international now exists only in the minds of those who use the words.²⁰⁸ Rosenau wrote primarily in opposition to Hans Morgenthau's postulated impenetrability of the nation state as a unit of analysis within the latter's equation for calculation of the balance of power. In *Politics Among Nations* Morgenthau used circular diagrams to illustrate his perception of the dynamics of the balance of power system.²⁰⁹ This simple heuristic device gave rise to the unwarranted allegation that Morgenthau (and therefore by implication all modern political realists) advocated a simplistic billiard ball approach to the study of international relations. Utilization of such pejorative terminology obscures and distorts the complexity of Morgenthau's thought on the subject and adds nothing to the understanding of the serious issues involved.

Morgenthau was acutely aware of the penetrability of the modern nation state. He merely chose to assume that for the purpose of analyzing international politics the principles of power politics and of the balance of power system were equally applicable to all states irrespective of elemental differences among their operative dynamics on the domestic level of analysis—whether they were communist, liberal, democratic, totalitarian, authoritarian, socialist, capitalist, etc. The postulated impenetrability of the nation state was merely a way of saying that all states are part of the balance of power system and subject to the law of power politics.

Morgenthau realized full well that the domestic characteristics of each state would constantly interact with the domestic characteristics of other states and that this interaction would give rise to the dynamics of international politics, power politics, and the balance of power. The conduct of foreign policy by a particular state was ineluctably influenced by the peculiar concatenation of its domestic political, economic, geographic, demographic, cultural, and legal constitutive elements. Differences among states in their respective domestic arrangements would account for the differences in their individual reactions to each other and to the dynamics of power politics and the balance of power on the international level of analysis. Some states would be more successful than others in the adjustment of their domestic systems to the realities of the international system. But this process of adaptation or maladaptation must take place for all states through the medium of power politics and within the confines of the international balance of power system.

Furthermore, a cardinal tenet of political realism is that the bal-

²⁰⁷ See Rosenau, *Pre-theories and Theories of Foreign Policy*, in *APPROACHES TO COMPARATIVE AND INTERNATIONAL POLITICS* 27 (R. Farrell ed. 1966).

²⁰⁸ *Id.* at 56.

²⁰⁹ See H. MORGENTHAU, *POLITICS AMONG NATIONS* 129-33 (1948).

ance of power and power politics have existed before are characteristic of and will continue to operate after the interlude in world history known as the nation state system. These are not temporary phenomena, but universal and eternal Thucydidean laws that transcend any particular historical era. Viewed from this systemic perspective it becomes immaterial whether Morgenthau's billiard balls represented nation states or city states, principalities, kingdoms, or empires in interaction with each other. So long as there was more than one actor, the rules and configuration of the game would remain the same. Thucydides, Machiavelli, and Hobbes provided ample support for this proposition.

C Man

Hans Morgenthau told of the great difficulty he experienced in inducing publishers to accept a book devoted to power politics in the aftermath of the Second World War.²¹⁰ This was a time when philosophers were confidently predicting an end to Machiavellianism.²¹¹ Yet since that day *Politics Among Nations* has become one of, if not the most widely published and cited works of modern international political science. What reasons are responsible for this apparent paradox?

Machiavellianism is considered to be the epitome of absolute evil, a pernicious doctrine whose articles of faith undermine the very foundation of Western Christian civilization.²¹² Even those international political decisionmakers who religiously obey the law of power politics would never admit in public or perhaps even to themselves that they are power politicians of either the Thucydidean or Machiavellian variety.²¹³ For what modern men see in *The Prince* is a blueprint for the theoretical prototype for the exemplar twentieth century totalitarian dictatorship whose foreign and domestic manifestations of war and tyranny they have experienced so tragically and repeatedly. The strangling of the Orsini by Cesare Borgia at Sinigaglia²¹⁴ evaporates into historical immateriality before Kaiser Wilhelm's invasion of neutral Belgium in 1914, Stalin's extinction of the kulaks and his Great Purges of 1936 to 1938, Hitler's instigation of the Second World War and ex-

termination of the Jewish people and the atomic destruction of Hiroshima and Nagasaki by the United States of America. Nazi Germany, Stalinist Russia, and the First and Second World Wars represent the ultimate expression of Machiavellian power politics in the modern world.

Twentieth century men instinctively recoil in horror before the monstrous grotesqueness of the Machiavellian portrait of modernity as a living hell. This is precisely because the brutal exercise of raw power politics repulses some elemental moral facet of human nature. For although men might be as Machiavelli, Thucydides, and Hobbes said—ungrateful, fickle, liars, and deceivers, overwhelmed by lust for power, arising from greed and ambition, possessed by a will to power—they are also at other times compassionate, loyal, loving, selfless, or else if not so in fact, would at least like to perceive themselves as such. This moralistic feature of the human personality compels man to repudiate power politics in principle even if contemporaneously he must through force of political circumstances implement power politics to survive. The human historical condition generates a natural dynamic tension between his desire to be good *vs.* idealism and his need to be evil *vs.* realism. Man is continually yet insolubly perplexed by the enigma of his own Manichaean duality.

In order to alleviate the unbearable psychic pain flowing from this fundamental disequilibrium, man invents an elaborate psychological rationalization which on the surface deceptively appears to reconcile and harmonize antithetical elements. This is accomplished through the psychological phenomenon of intellectual justification. The exercise of power politics becomes justified by the sanctity or glory or merit of the ultimate goal, the national interest/general will. The principles of power politics are psychologically acceptable to man if put to the service of this just cause. In effect, man's best solution to his psychological dilemma of idealism versus realism is the Machiavellian doctrine that the end justifies the means. So long as the objective of political action is something which appeals to the moralistic component of human nature, man can psychologically tolerate—seemingly without limitation—the employment of power politics to achieve his sanctified political designs.

The writings of Thucydides, Machiavelli, and Hobbes provided man with historical and philosophical support for his rationalizations. Yet neither Thucydides, Machiavelli, nor Hobbes seriously considered the political implications of the moralistic side of the human personality. Their fixation upon man's despicable nature precluded their ability to delineate analytically its diametric opposite and then to incorporate the results of such speculative analysis into their respective theories of power politics. A complete and fully mature theory of power politics would have recognized that man is motivated not only or even most

210 Lectures on International Politics by Professor Hans J. Morgenthau, University of Chicago in Chicago (Winter Quarter 1970).

211 See e.g. J. Maritain, *The End of Machiavellianism*, 4 Rev. Pol. 1 (1942).

212 But see Mattingly, *Machiavelli's Prince: Political Science or Political Satire?*, 27 Am. Scholar 482 (1958).

213 For example, in his famous interview with Orana Fallaci, Henry Kissinger specifically denied that he was a Machiavellian. Fallaci, *Kissinger*, New Republic, Dec. 16, 1972, at 17, 21. When she proceeded to push him quite hard on his conduct of the Vietnam War, however, Kissinger tried to change the subject as follows: "But that's really enough about Vietnam now. Let's talk of Machiavelli. Cioero anything except Vietnam." *Id.* at 17, 19. Why Machiavelli was the first preferable alternative to the Vietnam War that came to Kissinger's mind would have been an interesting follow-up question.

214 See note 89 *supra*.

effectively by fear but also by the skillful manipulation of the entire plethora of altruistic psychological traits which trace their common origin to a moral dimension extant within the human personality. Of course this positive perspective on human nature derives its philosophical inspiration from the intellectual tradition evolving from Socrates and Plato through Christ to Rousseau and Marx whose common underlying assumption was the essential goodness and moral perfectibility of man. Thucydides, Machiavelli, and Hobbes were certainly aware of the reputed existence of some of the morally good qualities of mankind. But in their opinion these were few if any in number and always proved to be a fatally uncertain and ineffectual foundation for political and physical survival.

It was not until the advent of modern political realism that the Thucydidean Machiavellian Hobbesist tradition of power politics based upon the thesis of man's despicable nature fused with a Platonic Christian Rousseauian philosophical tradition premised upon the exact antithesis of man's moral perfectibility to create the synthesis of contemporary thought on power politics founded upon the postulated existence of a Manichaean duality intrinsic to human nature. To quote Hans Morgenthau's classic definition of political power:

Political power is a psychological relation between those who exercise it and those over whom it is exercised. It gives the former control over certain actions of the latter through the impact which the former exert on the latter's minds. That impact derives from three sources: the expectation of benefits, the fear of disadvantages, the respect or love for men or institutions. It may be exerted through orders, threats, the authority or charisma of a man or of an office or a combination of any of these.²¹⁵

In this passage both the positive and negative elements of the human personality are stated to be politically meaningful and hence potentially exploitable for the acquisition of power. Thus among the many dubious intellectual achievements of modern political realism was the production of a theory of power politics which carried the tradition of Thucydides, Machiavelli, and Hobbes to its logical culmination. A modern theory of political realism exploits the full dimensions of the human personality. The political importance of human altruism is finally acknowledged and given a weight equal to that of human selfishness. All elements of human nature have now been incorporated within and subjected to the law of power politics.

D The Elements of Modern Political Realism

What follows is a brief recapitulation of the fundamental assumptions made by modern political realists concerning the nature of man

the state and the system together with an indication of the closest philosophical precursors for each particular point

MAN

- 1 *Rational actor* Man is a rational actor in the sense that he can calculate considerations of interest and power and act upon such calculations (Thucydides, Machiavelli, Hobbes)
- 2 *Human nature* Human nature is neither good nor evil but simply natural (Hobbes)
 - A Human nature has selfish elements (Thucydides, Machiavelli, Hobbes)
 - B Human nature has selfless elements (Plato, Christ, Rousseau)
 - C Each set of elements is of equal importance for the purpose of political exploitability (original notion)
- 3 *Free will*
 - A There is a limited but significant scope for the exercise of man's free will in foreign affairs (Machiavelli)
 - B There is a much greater scope for the exercise of man's free will in domestic affairs (Hobbes)

STATE

- 1 *Purpose* The purpose of the nation state is
 - A preservation (Thucydides, Machiavelli, Hobbes)
 - B prosperity (Hobbes)
 - C the moral development of its citizens (Plato, Rousseau)
 - 2 *Legitimacy* The source of legitimacy for the state is
 - A a monopoly of power (Hobbes)
 - B domestically the consent of the governed (Hobbes, Locke, Rousseau)
 - C internationally the general will/national interest (Rousseau, original notion)
 - 3 *Social Altruism* The phenomena of law, justice, and morality are crucial for preserving domestic peace (Thucydides, Plato, Rousseau)
 - 4 *Power* In essence domestic politics are nevertheless ultimately founded upon domination flowing from power relationships (Thucydides, Machiavelli, Hobbes)
- #### SYSTEM
- 1 *Actor* The nation state is the basic actor and unit of analysis (Hobbes, Rousseau)
 - 2 *Rationality* The state is a rational actor in the sense that it can calculate considerations of interest and power and act upon such calculations (Machiavelli)
 - 3 *Dynamics* Power politics is the mode of interaction among states (Machiavelli)
 - 4 *Configuration* The interaction of states by means of power

- politics produces a balance of power among them (Thucydides Hobbes)
- 5 *State altruism* The phenomena of law justice and morality are irrelevant to international politics (Thucydides Machiavelli Hobbes)
- 6 *Legitimacy* The source of legitimacy for the modern nation state system itself is the general will/national interest/national self determination (Rousseau original notion)

VIII CONCLUSION

The continuity of thought on the nature and dilemma of *homo politicus* over a period of almost twenty five hundred years of Western political philosophy starting with Thucydides through Machiavelli and Hobbes and on to the modern political realists is striking. Equally remarkable however is the resemblance of peculiar political conditions that impelled all of these theorists to write an historical correspondence which to a significant extent is responsible for their ideational congruence on fundamental issues. Thucydides Machiavelli and Hobbes consciously chose to become analysts of the turbulent events that seemed completely to engulf their respective societies—the Peloponnesian war the discord of Renaissance Italy and the English revolution. Yet in retrospect these events enabled them to transcend the particular historical conditions in which they lived and to propound what they perceived to be universal and eternal political truths generally applicable to the historical condition of all men throughout all time. This tentative hypothesis can be advanced one step further by noting that it was the exercise of an especially destructive almost irrationally cruel brutal and naked form of power politics by the Nazis and the consequent world wide cataclysm that exerted a profound effect upon the emergence of the modern school of political realism expounding a theory of power politics updated to the realities of the nation state. Modern political realists do indeed follow in the philosophical tradition of Thucydides Machiavelli and Hobbes and can be understood as drawn to their conclusions by similar historical circumstances.²¹⁶

This repeated historical coincidence of a theory of power politics with seriously disturbed political conditions can be explained by the speculation that when men of extraordinary intelligence and acumen live in times of incessant warfare and civil strife among and within sovereign political entities they invariably draw the conclusion from their empirical observations that the only common denominator of political relationships between men as individuals or among men collectively organized into political units is power politics.²¹⁷ It is in those

eras when the exercise of power politics is most blatant cruel and wide spread that theoretical analysts are driven by historical circumstances to perceive and conclude that power politics comprises the very essence of civil society and the totality of political relationships and concomitantly that it is the *animus dominantis* within men themselves which is responsible for the existence of this situation. It is a consequent of this position to argue that the elemental function of power is merely obscured during times of apparent peace and social harmony by the prevalence and seemingly effective operation of law morality ethics religion and all those beneficial social phenomena whose operative premises and dynamics are diametrically opposed to those of power politics and which strive first to ameliorate then to transmute and channel the *animus dominantis* of man into non destructive and socially beneficent outlets. Yet despite this transparent tranquility it is inevitable that man himself possessed by the spirit of domination shall willfully choose to sunder this fabric of his own artificial creation—society—and thus allow that very spirit of domination to rage uncontrolled and unrivalled to the utter desolation of himself and his fellows divulging man in the consummate form of his own humanity—namely as a supremely selfish ego propelled by an insatiable id to undertake the ultimate destruction of the feckless elements of his superego. For the rest of the time man's *animus dominantis* and power politics lurk beneath the surface of civil society predetermining the structure of its arrangements and all the while awaiting the opportunity to burst forth from their subterranean lair into the spotlight of the man political arena where through the violence of war and revolution they can suicidally devastate those very power relationships which they had just previously established in order to construct replacements upon the rubble of their predecessors and thus complete the interminable cycle of man's existence—war conquest domination tyranny and war again.²¹⁸

Such is the existential fate of modern man and theorists of power politics wrote so that he will never forget it or be deluded by promises of a better life on earth or salvation in another life beyond. Profound despair over man's ultimate inhumanity to man was the collective response of these power theorists to the monumental tragedies of their eras. Man is condemned to universal and eternal hell on this earth so long as he shall live. His destruction will be the result of a predetermined act of his own free will choosing to obey the law of power politics. The logical culmination to the modern political realist position is a

216 See also Carr, *Preface to Second Edition & Preface to First Edition* in *THE TWENTY YEARS CRISIS, 1919-1939* at vii & ix (2d ed 1946).

217 To this enumeration of theories of power politics composed during and as a direct result

of distressed political circumstances should also be added *THE BOOK OF LORD SHANG* written at the time of the Warring States Period in classical Chinese history and the *Arthashastra*, composed during the formation of the Mauryan Empire in India. See note 15 *supra*.

218 *Cf.* POLYBIUS, *THE HISTORIES* 269-93 (Loeb Classical Library ed 1923) (classic cyclical conception of history).

prediction of the inevitability of a Third World War.²¹⁹ The law of power politics permits no other conclusion. Ironically it will prove to be a self-fulfilling prophecy.

If primarily for reasons of philosophical and psychological prediction modern man still actually believes that only power matters in international politics then so it might very well be. The escape from this apparent dilemma is the realization that power politics is not essentially an iron law of history but rather both a complicated set of philosophical premises and an elaborate psychological rationalization that could very well be factually inaccurate as a description of events under all historical conditions or else only partially valid under certain well defined and restricted circumstances. A philosophy of power politics was basically designed by men who lived in times of all out warfare. Consequently the pursuit of power politics by statesmen in non war situations might simply bring about that very war which the principles of power politics were supposed to avoid prevent manage or ameliorate.

On the other hand it would be the height of folly to credit fully the simplistic assumption set out in the preamble to the UNESCO Convention. That since wars began in the minds of men it is in the minds of men that the defences of peace must be constructed. This theory of men theory of international politics is subject to the same criticisms as modern political realism. There is no reason to believe that modern man can in fact control his destiny to the enormous extent Machiavelli asserted he could—somewhat less than 50%. So much is left to purely random factors that randomness itself must be deemed to constitute an immanent historical force. By definition randomness is totally beyond the reach of man's free will to influence though perhaps he can comprehend and estimate the degree of randomness in the system.²²⁰ A fundamental assumption of modern political realism however is that the practice of power politics can somehow reduce the degree of innate historical randomness and as a corollary thereto that if all actors choose to operate in accordance with pure principles of power politics the system of international relations would somehow magically become more predictable and therefore more stable than would otherwise be the case since a perfect balance of power would naturally come into existence.

To the contrary it is just as logical to argue that the conscientious pursuit of power politics exerts no discernible effect upon historical randomness whatsoever or even works counterproductively to increase

the degree of randomness and instability in the system and thus to place international politics beyond the capacity of any one or all actors for exercising substantial control. The Machiavellian modern man simply possesses too much faith in his own rationality too much trust in the strength of his own intellect too much conviction in the force of his free will to manipulate history and too much confidence that power politics is the most effective means to do so. This entire set of self-generated delusions could prove to be fatally dangerous for mankind. The development of more humility therefore becomes the critical starting point for the survival of modern man.

219. See Entebbe *supra* note 11 at 855-56 (Hans Morgenthau's final prediction on the inevitability of a worldwide nuclear war).

220. For a practical application of the scientific phenomenon known as random genetic drift see Lewontin & Dunn *The Evolutionary Dynamics of a Polymorphism in the House Mouse* 45 GENETICS 705-22 (1960). See generally R. Lewontin, THE GENETIC BASIS OF EVOLUTIONARY CHANGE (1974).