THINKING LOCALLY, ACTING GLOBALLY – HUMAN SECURITY AND THE NEW SOLIDARISM IN INTERNATIONAL SOCIETY

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B.A. (Hons.), Simon Fraser University, 1997

A THESIS SUBMITTED IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE DEGREE OF MASTER OF ARTS in

THE FACULTY OF GRADUATE STUDIES (Department of Political Science)

We accept this thesis as conforming to the required standard

THE UNIVERSITY OF BRITISH COLUMBIA

November, 2000

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ABSTRACT

Human security is a relatively new concept in the terminology of international relations, and yet it has become prominent relatively quickly in the pronouncements of both international organizations and a group of like-minded Northern states dedicated to human rights, humanitarian and human development agendas. Most significantly, the doctrine of human security was invoked during NATO's recent "humanitarian war" over Kosovo. Nevertheless, few have considered either the normative foundations of this new approach or the theoretical heritage of security more generally.

After examining the contours of the human security approach, I will consider the "idea of security" in a historical and normative sense. It is possible to group approaches to the normative idea of security into three competing traditions in the political theory of international relations, based on the works of Hobbes, Kant and Grotius. Each of these thinkers will be studied and considered in the context of historical international association. It will be argued that at present, an international society in the Grotian sense prevails. This society can be described as an association of diverse states, based on the rule of law and interstate order rather than notions of universalist justice or cosmopolitan citizenship.

This thesis will offer a critical examination of the concept and practice of human security as it has evolved to date, with particular emphasis placed on the Kantian/cosmopolitan foundations of human security and how these conflict with the international rule of law. In particular, I will argue that where the provision of human security translates into forcible humanitarian intervention, the legal foundations of international society are undermined, and the certainty which the existing rules of international society created, diminished. In this way, human security presents considerable moral, practical, and prudential problems.
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ACKNOWLEDGEMENTS

I would like to take this opportunity to thank my supervisor, Professor Robert Jackson, whose guidance, insight and encouragement I have benefited from greatly while writing this thesis. It has been a privilege to study with such a committed, wise and eminent scholar.

I am also indebted to Professor Barbara Arneil for her support and encouragement during the course of my degree, and her role in facilitating my participation in a human security conference in Toronto, which led to our co-authored article in Canadian Foreign Policy. I appreciated her thought-provoking comments as Chair of my Examination Committee.

I am grateful to the University of British Columbia, Faculty of Graduate Studies, and the Department of Political Science, for a University Graduate Fellowship award, which greatly facilitated my degree.

Finally, and most importantly, I wish to express my profound gratitude to my husband, Peter Owens, and my parents Jim and Louise Mattson, for their unswerving support and encouragement.
"Politics is a realm of human experience continuously studied in one form or another since Plato heard Socrates arguing about justice in the market-place, and himself immediately began lecturing to Aristotle. To study politics means, primarily, entering this tradition, joining in the conversation, speculating about the state, authority, the justification and limits of power, the sources of law and political obligation, and the nature of freedom and rights. International theory is the corresponding tradition of enquiry about relations between states, the problems of obligations that arise in the absence as distinct from the presence of government, the nature of the community of which states are members, and the principles of foreign policy. In other words international theory is the political philosophy of international relations."

- Martin Wight, International Theory, pg. 1
Introduction

Human security is a relatively new concept in the terminology of international relations, and yet it has become prominent relatively quickly in the pronouncements of both international organizations and a group of like-minded Northern states dedicated to human rights, humanitarian and human development agendas. United Nations Secretary-General Kofi Annan, for example, has stated that “Ensuring human security is, in the broadest sense, the United Nations’ cardinal mission.” Canada’s recent Foreign Minister Lloyd Axworthy has described human security as “an effort to construct a global society where the safety of the individual is at the center of international priorities and a motivating force for international action.” Human security thus represents an impetus for change in foreign policy practice, and more importantly, may suggest an attempt to fundamentally reshape the normative foundations of international relations by shifting the moral priority normally accorded to states, to individuals. It is thus a concept which requires closer scrutiny than has perhaps been received to date.

Proponents of human security suggest that where the national security of states, and international concerns with the balance of power and nuclear proliferation, have dominated the security agenda since the Second World War, they have done so to the detriment of the common people: the singular preoccupation with interstate war and peace ignores the suffering and daily plights of hungry, poor, oppressed and threatened individuals particularly. In response, the core idea of human security is that the security of individuals is as important as the security of states, if not more so. Indeed, the state is seen primarily as a security arrangement for individual citizens, and where it fails to fulfill this function its legitimacy is fundamentally undermined. It becomes the responsibility of the international community or other states to ensure that the security of

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1 Note that at the time this thesis was being finalized, Lloyd Axworthy retired from politics and the position of Minister of Foreign Affairs. On October 17, 2000, the Honourable John Manley was named as the new Minister, although he is essentially a “caretaker” Minister until a new cabinet is formed following the November 27, 2000 federal election.
3 A recent exception to this statement is a very thoughtful article by William Bain, “Against Crusading: The Ethic of Human Security and Canadian Foreign Policy”, Canadian Foreign Policy, vol. 6, no. 3 (Spring 1999), 85-98; the author wishes to acknowledge the influence of this article, and many conversations with its author, in the present work.
individuals across borders is restored, and the perpetrators of crimes against these same citizens punished. In response, the human security agenda as it has evolved to date is pursued through three interrelated means: standard setting and law-making in the international community, outside intervention into states to ameliorate insecurity (through consensual and non-consensual/forcible means), and attempts to provide legal redress for victims through tribunals mandated by international criminal law. In all of these practices international law ostensibly figures prominently in human security. At the same time, however, increasing emphasis is placed on the use of force (particularly where the protection of civilians in armed conflict is concerned) and as the recent intervention into Kosovo demonstrates, force may be applied outside of the legal framework of international society.

This thesis will offer a critical examination of the concept and practice of human security as it has evolved to date, with particular emphasis placed on the normative foundations of human security and how these foundations conflict with the normative foundations which presently underwrite international society, especially where the use of force is concerned. International society is an association of diverse states, based on the rule of law and interstate order rather than notions of universalist justice or cosmopolitan citizenship. This mode of association is not devoid of morality, but rather recognizes that states, rather than being mere instruments of one universal moral will, instead embody diverse moral, social, legal and cultural values. In relations between states these may conflict. Instead of a predetermined universal moral code, international society is guided by positive international law, an authoritative social practice among states which serves the practical and ethical requirements of a pluralist international society. Accordingly, the present order is based on several inter-related foundations: near-unconditional respect for the sovereign status of all states and non-intervention into the affairs of states; a prohibition on the use of force in international relations unless required for self-defence or in instances where the collective security of international society is threatened by the aggressive actions of one state against another (and as provided for in Chapter VII of the United Nations Charter); and a broad respect for a positivist and statist corpus of international law constituted by custom and treaty. In other words, international society
and its constitutive rules of non-intervention and non-use of force are informed by a respect for pluralism, self-determination and peaceful co-existence within a consensual legal framework.

In contrast, proponents of human security share a particular, if implicit set of normative beliefs about the rights of the abstract individual and his or her entitlements in global politics. These beliefs suggest a revitalization of a cosmopolitan ethic in international relations, an ethic which sees the universal protection of individuals, rather than states, as the ultimate moral imperative. The proper constitution of international community, by this account, is a universal community of humankind with shared human rights entitlements dictated by reason and "common morality": a "solidarist" global order. A solidarist ethic assumes the existence of a shared moral community of all humankind, and a universal set of moral values, which transcend place, culture, community values and historical experience. It demands the fulfillment of universal moral obligations not only within our own states, but also beyond our borders. This morality entails a particular vision of sovereignty, of prohibitions on the use of force, and ultimately of international law. The corollary of this vision is nothing less than a radical shift in the ethical framework of international society from a pluralist association of sovereign states to a solidarist association of states whose sovereign status is conditional upon protection of, and respect for, rights-bearing individuals.

In particular, human security as it has evolved to date may challenge prevailing notions of juridical sovereignty and the corollary of non-intervention. Sovereignty would not be a "right" in the way it is now; rather, proponents of human security have suggested that recognition of and respect for a state's sovereign status would be dictated, at least in part, by adherence to a universal moral code centered around a cosmopolitan ethic of human rights. Moreover, from the indications given recently by proponents of human security, it seems that force would be an acceptable, albeit uncommon, means of enforcing this moral code in certain types of situations. I will argue that where the provision of human security translates into forcible humanitarian intervention, however,

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each of the foundations of international society is undermined, and the certainty with which the existing rules of international society were created, diminished. In this way, human security presents considerable moral, practical, and prudential problems.\(^5\)

Morally, human security suggests that there is a single moral truth and objectively known set of values, which applies at all times and in all places, upon which relations between states ought to be based. Such a position conflicts with the value pluralism which presently characterizes the society of states, and discloses fundamental disagreement about the source of community and morality. In a world of communities marked by divergent and sometimes conflicting values, the universalism to which human security aspires may remain elusive. Practically, actions to undermine the legal sovereignty of states will ultimately confound attempts to strengthen humanitarian and human rights law, which remain largely the responsibility of states to implement. Prudentially, human security may challenge the constitutive norms of international society and thus the present international order. With its de facto acceptance of “conditional sovereignty” and the use of force, human security repudiates the key means of pluralist international society to preserve a peaceful co-existence. To overturn the consensus which has developed around the international rule of law, for the purpose of imposing this universalist vision through the use of force particularly, may destabilize whatever international order presently exists. In this way, the very goal of security for humanity may be undermined.

As an alternative to these human security practices, I will consider whether human security would gain greater legitimacy and influence by eschewing the use of force as a tool of policy, and instead embracing an approach which consistently respects the international rule of law and the pluralist foundations of international society, while at the same time continuing to engage and pressure recalcitrant states on humanitarian and human rights issues. A crucial part of this strategy is for the international community to clarify and codify a *consensus* on substantive values and the means by which to enforce these norms.

These, then, are the broad contours of my argument. The path to this conclusion will be structured in the following way. The first section will consider the definition and practice of human security as it has evolved to date, largely through an examination of UN and Canadian policy-oriented documents and statements. While human security started out closely linked to the concept of emancipatory human development, recently proponents of the concept have placed considerable emphasis on the protection of civilians in armed conflict and, where necessary, forcible humanitarian intervention. This shift seems to have crystallized during the course of NATO’s “humanitarian war” with the Federal Republic of Yugoslavia over the treatment of Kosovo Albanians in 1999. This episode suggests that human security has incorporated into its rubric particular ideas about the role of states, sovereignty and the use of force in international relations, ideas which differ significantly from the international legal status quo.

The second section will consider the very idea of security, its meaning and its history. In order to begin critically examining “human security”, it is important to understand that security is, and always has been, a fundamental value in human relations. This normative heritage of the concept of security is largely ignored, and possibly misunderstood, by many proponents of human security, who see security as a “how to” question whose purposes and goals are self-evident and intrinsically valuable. I will argue that acknowledging the normative position implied by proponents of human security, and where it stands in an enduring debate with the two other positions, is crucial because it goes to the heart of the political theory of international relations, and the real or desired ethical relationships between individuals, states, and the moral standing of states in the international community. Ideas about these relationships, in turn, shape international practice. Accordingly, I will consider in this thesis three competing traditions of thought on the subject: the realist tradition, the revolutionist (Kantian/cosmopolitan) tradition, and rationalist (Grotian) tradition which all suggest how security from existential threat can best be achieved at the individual, state, and international levels. With this context in mind, the second chapter will introduce the first of three foundational political theories of international relations: the realist tradition. The remainder of the chapter will unpack the idea of the state which has informed the realist
security ethic which has been so influential in international relations to date. From this I will identify the “paradoxes of security” which arise from the practice of the realist security ethic, and the difficulties and moral dilemmas to which proponents of human security might legitimately respond.

The third section will examine how human security is situated in the cosmopolitan/revolutionist tradition of international relations. I will demonstrate how the normative foundations of human security incorporate a Kantian/neo-Kantian approach to international relations and a prescription for the implementation of a solidarist ethic in relations between states. A solidarist ethic prescribes a common morality to be applied universally and largely without consequentialist considerations. Such an approach carries with it particular implications for notions of international society, sovereignty and international law. Modern proponents of the Kantian view arrive at policy prescriptions much like those of the proponents of human security. Their conclusions are formed in large part as a reaction to the realist perspective, and ignore the alternative international society perspective, which provides a means to address human rights concerns within the existing international legal framework.

The fourth section will consider in some depth the overlooked international society approach to international relations, also known as the Grotian or rationalist approach. I will consider the theory and history of this approach, and suggest that descriptively, it accurately portrays the present international order as it has evolved over centuries. I will examine the constitutive principles of international society, with particular emphasis on the role of positive international law and the idea of a “procedural consensus” in a pluralist international society. The problem of humanitarian intervention in international society will be considered, with particular emphasis on the relationship between international law and recent practices of humanitarian intervention.

The concluding section will consider the case of Kosovo as a “hard test” for human security. The extra-legal use of force in NATO’s 1999 humanitarian intervention highlights the contradictory nature of human security: while claiming a commitment to

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international law and its centrality in implementing the human security agenda, the normative foundations of human security simultaneously undermine the very foundation of international law, namely the sovereign state, the sole means of creating new laws in international society and of implementing international law in municipal legal systems. Human security advocates fail to recognize that unconditional juridical sovereignty is crucial to the existence of an effective law enforcing body.

The case of Kosovo also highlights the tension between justice and order in the cosmopolitan and Grotian perspectives of international relations. This tension is largely overlooked by proponents of human security, as are the conflicting requirements of moral and prudential reasoning. I will demonstrate that these tensions cannot be resolved within the context of the use of force and the flagrant abuse of international law. Alternative enforcement strategies which emphasize a “procedural consensus” among state actors hold greater promise for the attainment of human security than do radical and destabilizing policies which alienate potential aggressors and create discord within the community of states. Recognizing the practical realities of international society, and using the existing tools of positive international law, are crucial in maintaining international peace and security for all.
I. Human Security in Theory and Practice

The first task before us is to provide a definition of human security and examine how the practice of human security has evolved to date. By examining the policy statements and actions of the UN Secretary-General and Canada's recent Foreign Minister, two of the most vocal proponents of human security, I will demonstrate how from its peace research origins, human security has developed in part as a reaction to the predominance of realist security practice in international relations. In response, human security represents an attempt to shift the terms of international association towards a solidarist international order by reworking the practice of security away from the external security of the state, towards the personal security of individuals. To justify this goal, proponents rely on what they claim to be the universal moral imperative of human rights; the goal is attained, where necessary, through forcible humanitarian intervention. That the use of force has become a potential tool in the human security repertoire is demonstrated by NATO's recent "humanitarian war"\(^1\) against the Federal Republic of Yugoslavia in order to "secure" Kosovar Albanians. This intervention, in direct violation of international law\(^2\), together with explicit statements made by Secretary-General Annan and (former) Minister Axworthy, demonstrate an evolving notion of "conditional sovereignty", wherein respect for a state's sovereignty and territorial integrity is conditional upon fulfillment of human rights criteria as defined by Western states.

Human security is in some ways the culmination of one stream of intellectual development in the discipline of International Relations (IR). It is the outcome of ongoing debates within the field about the necessity/ utility of moving beyond the limited concern of American-dominated Strategic Studies\(^3\) with national military security and

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1 This term comes from Adam Roberts, "NATO's 'Humanitarian War' over Kosovo", *Survival*, vol. 41, no. 3 (Autumn 1999), 102-123.

2 This will be discussed at greater length in the final chapter. The statement is drawn from arguments put forward in articles by Bruno Simma, "NATO, the UN and the Use of Force: Legal Aspects" and Antonio Cassese, "Ex injuria ius oritur..." in *European Journal of International Law*, vol. 10, no. 1 (1999), 1-22 and 23-30, respectively.

3 Note that there is a tradition of strategic thinking among English writers that avoids the narrow military focus of the American approach. An example of such work is Hedley Bull, *The Control of the Arms Race* (London: Weidenfeld and Nicolson for ISS, 1961). I am indebted to Professor Robert Jackson for pointing this out to me.
insecurity between states, to consider such concepts of environmental insecurity, food and water shortages, underdevelopment and abuses of human rights and democracy as sources of potential conflict in the post-Cold War world. In particular, the theoretical roots of human security lie in the tradition of peace research and other attempts to broaden the range of security referents and issues, such as “common security”, a term coined by the UN-mandated Palme Commission investigating the interdependent relationship between poverty, deprivation and economic inequality on one hand, and the cycle of arms races and military insecurity on the other.

More to the point, however, human security and its antecedents can be viewed as a reaction to what were seen as the deleterious results of the predominance of realist security practice during the Cold War. Peace research, notions of common security and subsequent ideas about human security are by and large a repudiation of the state-centric realist security paradigm, which is commonly understood to focus largely on national security and the protection of the sovereign state in an anarchical, self-help system in which the currency is power. In the Cold War realist framework, security was sought through nuclear deterrence, bipolarity and strategic alliances. A central feature of the realist security ethic was the idea that security was derivative of power, particularly military power, and this threat of force was both a reality and an important tool for the statesperson. As Morgenthau argued, “[t]he threat of physical violence in the form of police action, imprisonment, capital punishment, or war is an intrinsic element of politics… In international politics in particular, armed strength as a threat or a potentiality is the most important material factor making for the political power of a nation.”

6 Buzan, People, States and Fear, 8. The ideas of the realist security paradigm are most commonly associated with the works of Carr, Wolfers, Niebuhr and Morgenthau.
The realist security ethic, which characterized security practice during the Cold War, was criticized by peace researchers and common security advocates for the creation of an international security dilemma, the nuclear arms race between the Superpowers, and the tenuous nature of national security achieved only at the expense of other states. In the West particularly, nuclear weapons engendered a profound sense of insecurity among publics, and for "those critical of realist strategic thinking, the military security of the state seemed synonymous with the insecurity of individuals held hostage to nuclear deterrence."  

At the same time, the realist ideal of national security obscured the massive human insecurity resulting from proxy wars in the Third World and the negative social consequences of militarized societies. Critics challenged the success of realist security policy, arguing that the so-called "long peace" of the Cold War era was a fallacy in so far as it ignored the more than 125 wars and 40 million deaths which occurred during that period. In this way, realism was alleged to be more than theoretically inadequate; it was, by virtue of its influence in American foreign policy circles and the Cold War, complicit in the suffering of millions. With its perceived narrow statist and militarist approach, it was considered at once inhumane and morally deficient.

Following the end of the Cold War particularly, many argued for an extension of the security referent beyond the state to include individuals, at the same time as broadening the nature of security to address threats emanating from sources outside of interstate military conflict. The term "security" took on a new character, moving away from the narrow values of national interest, and instead assuming a humanistic, interdependent, and multi-dimensional character in terms of prescriptions for how to practice security. Later proponents of the common security approach, for example, argued that "lasting security will not be achieved until it can be shared by all, and that it can only be achieved through co-operation, based on the principles of equity, justice, and

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These arguments laid the groundwork for the emergence of human security.

Human security, as a distinct security ethic, was first prominently articulated in the United Nations Development Programme’s (UNDP) Human Development Report 1994. The Report argued for a “profound transition in thinking—from nuclear security to human security” and decried the narrow interpretation of security as “security of territory from aggression, or as protection of national interests in foreign policy or as global security from the threat of a nuclear holocaust.” Reflecting the concerns of critics of national security, the Report highlighted the “real life” concerns of average citizens who were insecure in their daily lives owing to the threats of hunger, disease, unemployment, political repression, crime, ethnic conflict and environmental degradation. In the words of the report, “Human security is not a concern with weapons—it is a concern with human life and dignity.” The Report represented an ambitious attempt to link peace and security to the global development agenda and other issues of global governance.

One of the criticisms of the UNDP approach to human security was that by emphasizing mainly the threats to human security arising from the many facets of underdevelopment, the concept ignored the extreme and continuing threats to human security arising from the violent, usually intra-state, conflicts which have been a pervasive feature of the post-Cold War era. Later refinements of the human security idea have addressed this criticism. The work of the Commission on Global Governance is a case in point. In its 1995 report titled Our Global Neighborhood, the Commission endorsed the broadening of the concept of global security beyond “the protection of borders, ruling elites, and exclusive state interests to include the protection of people. [Human security] does not exclude military threats from the security agenda. Instead, it

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proposes a broader definition of threats in the light of pressing post-cold war humanitarian concerns. Of particular concern to the Commission was the increasing incidence of civil wars and the hardships and violence experienced by civilian populations as a result. Since that time, the concept of human security has increasingly emphasized the human costs of violent conflict and the protection of civilians in armed conflicts.

Canada's recent Minister of Foreign Affairs and International Trade, Lloyd Axworthy, has been at the forefront of international discussions about human security and led the operationalization of the concept by Canada's Department of Foreign Affairs and International Trade (DFAIT). The former Minister was instrumental in turning the vague concerns of human insecurity outlined above into a concrete agenda in Canada's foreign policy and in its activities within the United Nations General Assembly and Security Council. The Canadian example is the clearest articulation of human security in practice, and is therefore important to any study of human security.

Canada's human security policy starts from the premise that human security means "safety for people" and takes the security of individuals as its point of reference, "rather than focusing exclusively on the security of territory or governments." Human security is about reducing vulnerability and minimizing risk resulting from a range of factors, especially intra-state military threats, ethnic conflict, transnational crime, economic destitution, and political repression. In recent statements, however, Canada's human security policy increasingly seems to take as its central context the protection of civilians from crime-related violence, civil (intra-state and ethnic) conflicts, large-scale atrocities, and genocide. Axworthy's recent restatement of the definition of human security is a good example of this emphasis:

[Human security] is, in essence, an effort to construct a global society where the safety of the individual is at the center of international priorities and a motivating force for international action; where international humanitarian standards and the rule of law are advanced and woven into a coherent web protecting the individual; where those who violate these standards are held fully

15 The Commission on Global Governance, Our Global Neighbourhood, 81.
17 DFAIT, "Safety for People", 5.
accountable; and where our global, regional and bilateral institutions—present and future—are built and equipped to enhance and enforce these standards.19

The Canadian variant of human security sees international humanitarian law, with its focus on the civilian costs of conflict, and international human rights law, with its focus on core standards of human dignity, as the keys to transforming the traditional security agenda and building “sustainable” peace.20

Canada’s human security initiatives have centered on four types of activity. First, Canada has stated that “human rights, humanitarian and refugee law provide the normative framework on which a human security approach is based.”21 The language of international law and the rule of law is frequently invoked in Canadian statements on human security. In practice, Canada has particularly emphasized the use of international law to create standards and rules of acceptable behavior for states, mainly through the negotiation and ratification of treaties in the area of humanitarian law for the purpose of protecting non-combatants.22 However, a second and related area of human security activity is the creation and implementation of punitive mechanisms designed to hold accountable those who violate international humanitarian and human rights law. The most visible work in this area is Canada’s vigorous support for the ratification and future implementation of the Rome Statute establishing an International Criminal Court and support for the International War Crimes Tribunals currently operating in Rwanda and the Federal Republic of Yugoslavia.

A third area of activity is the various multilateral or bilateral non-forcible interventions into states with the consent of that state. This category covers a broad array of activity which includes traditional peacekeeping, humanitarian assistance, development assistance, and peacebuilding in terms of financial and material support for (re)building state institutions and democratic processes. Support for all of the foregoing

19 DFAIT, “Interview with Minister Axworthy”, 3.
22 Of particular note in this respect is the successful campaign to ban anti-personnel landmines, support for the Secretary-General’s efforts to protect civilians in armed conflicts, proposals for a UN conference on the illicit trade of small arms, and initiatives to protect children in armed conflict through development of an Optional Protocol to the Convention of the Rights of the Child.
practices of human security have been shared by other supporters of the concept, particularly the UN Secretary-General, Norway and the Netherlands.

A fourth and very controversial category of activity intended to bring human security to foreign populations must also be considered: the use of force against states threatening or harming large portions of their populations. Indeed, it is the growing link between human security and the use of force that informs the central concern of this paper. While still considered exceptional, the use of force is seen increasingly in the realm of possibility where human security is concerned. This link between human security and humanitarian intervention has emerged as a result of Canada's strong support for, and participation in, NATO's aerial bombing campaign against the Federal Republic of Yugoslavia earlier this year, executed in an attempt to end the horrific massacres of civilians and other large-scale violations of human rights including rape and "ethnic cleansing". At the time, Axworthy made clear the relationship between human security and the use of force:

The crisis in Kosovo is a concrete expression of this human security dynamic at work... If Kosovo symbolizes how human security has become a focus of attention and concern for the international community, NATO's response demonstrates how the defence of human security has become a force for global action. NATO is engaged to restore human security to the Kosovars. It was and is the humanitarian imperative that has galvanized the Alliance to act... NATO's response to the situation in Kosovo highlights the fact that, while it is not without tensions, human security provides a rational for concerted action. It also shows that the instruments for pursuing human security are diverse... Sometimes, however, hard power—in this case military force—is needed to achieve human security goals. NATO's air campaign should serve to dispel the misconception that military force and the human security agenda are mutually exclusive.23

Since that time, other statements have reinforced this link.24 Defence Minister Eggleton left the door open to future humanitarian interventions when he stated in a speech to Harvard University in September 1999 that human security and humanitarian intervention are part of a continuum, and that a precedent was set at Kosovo that while there will not automatically be military intervention to avert humanitarian tragedies, military action is now an option the Canadian government is willing to consider, if such action would be practical and effective. This action need not necessarily be sanctioned by the Security

23 "Notes for an Address by the Honourable Lloyd Axworthy, Minister of Foreign Affairs to the Woodrow Wilson School of Public and International Relations, Princeton University "Kosovo and the Human Security Agenda"", DFAIT Statement 99/28, April 7, 1999.
24 DFAIT, "Safety for People", 8.
Council. In short, from these statements it would not be unreasonable to conclude that the Kosovo precedent clearly discloses that, for the Canadian government at least, the use of force is considered an acceptable policy option in the human security repertoire. Perhaps of greater interest are the suggestions by U.S. President Bill Clinton and other NATO leaders that forcible humanitarian intervention will be practiced in other cases (but not all cases) where it is both practical and viable to do so. Speaking in June 1999 to NATO troops in Macedonia, for example, Mr. Clinton said: “If somebody comes after innocent civilians and tries to kill them en masse because of their race, their ethnic background or their religion, and it’s within our power to stop it, we will stop it.”

In a similar vein, proponents of human security have also argued that the values of state sovereignty and the corollary of non-intervention are conditional upon a state’s satisfactory provision of human security for its citizens. Put slightly differently, human security is considered not inconsistent with notions of state sovereignty, in so far as state sovereignty is intended primarily as a means to provide human security for a state’s citizens. Where the state fails to do so, or purposely threatens its citizens, it forfeits its rights to non-intervention. A recent statement by Minister Axworthy is illustrative:

the alternately transnational and interstate nature of many human security threats calls into question exclusive notions of state sovereignty. It compels us to adapt and complement—but by no means discard—our traditional state-centered theories and approaches to the world with another perspective that puts people at the forefront. State sovereignty is not an end in itself—it exists to serve citizens and to protect their security... where human security is imperiled on a massive scale within state borders, the challenge for all of us is to consider the limits of sovereignty and the conditions for humanitarian intervention.

26 As quoted in Paul Knox, “U.S. has cold feet about involvement in global hot spots” Globe and Mail, 22 September 1999, A15. It should be noted that in September 1999 President Clinton drew back from this pledge somewhat, warning that the United States “cannot do everything, everywhere.” Secretary of State Albright’s statement represents a more tempered position. Speaking on June 10, 1999, she said “As for the use of force, Kosovo tells us only what we should have already known. Yes, in confronting evil and otherwise protecting our interests, force is sometimes required. No, as before Kosovo, it is not wise to formulate assumptions based on any single experience about exactly when and how force should be applied. In coping with future crisis, the accumulated wisdom of the past will have to be weighed against factors unique to that place and time.” United States Department of State, Online: http://secretary.state.gov/www/statements/1999/990614a.html
27 “Notes for an Address by the Honourable Lloyd Axworthy, Minister of Foreign Affairs to the Atlantic Diplomatic Forum”, DFAIT Statement 99/55, November 5, 1999.
This statement and the others noted above suggest that in essence, the human security imperative overrides prohibitions against the use of force or intervention into the domestic affairs of a sovereign state where human life or human rights are imperiled on a massive scale. It should be emphasized that Canada is not alone in making these arguments. In a recent article on sovereignty and humanitarian intervention, UN Secretary-General Kofi Annan argued that "states are now widely understood to be instruments at the service of their peoples, and not vice versa." In the Secretary-General's view, individual sovereignty, or the fundamental freedom of the individual, poses new challenges to "traditional" and "absolutist" notions of state sovereignty and non-intervention.

These then, are the ideas and practices of human security. They are significant here not because they represent a departure in the practice of Canadian foreign policy, or because they are a unique example of political rhetoric and justification for self-interested parties (although both of these statements may be true). Rather, they are of interest here in the following respects. The statements above imply a particular vision of morality (universal), law (in the service of morality), and the sovereign state (whose sovereignty is conditional upon the fulfillment of these universal moral criteria) in international relations, as will be discussed chapter three. Indeed, from the practice of human security elucidated above, it is possible to identify an abstract set of normative assumptions which are revolutionary in so far as they self-consciously prescribe a radical departure from the past realist theory in practice of international relations. In cases of civil war and gross violations of human rights, civilians as human beings have a privileged place in international relations. The identity of such persons is less national than it is international: by virtue of "human rights and humanitarian law" and the idea of universal standards, humans have universal entitlements to personal security. This entitlement seemingly creates an obligation on the part of the international community to act. No longer is the remedy to such human suffering confined to the actions of national governments, but rather the international community (or some segment of it, in the case

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of Kosovo) has a duty to intervene, by force if necessary, to restore human security. The stated corollary of this duty is that sovereignty and the related rules of non-intervention and non-use of force are less "absolute" than in the past and therefore open to interpretation or abrogation as circumstances demand.

Perhaps, though, this discussion of normative assumptions is premature. While it is indeed possible to translate the language of human security into claims of universal human rights entitlements and obligations, such claims are less explicit than implied. And on a day-to-day basis, proponents of human security are less grandiose in their designs. They speak with greater certainty about instrumental issues: changing the practice of security on the basis of new threats, "to reduce vulnerability and minimize risk." Human security is claimed to be a "shift in the angle of vision," or a "new lens," to enable a better way of "doing" security. They share with their common security predecessors, a vision of security seen more as an instrumental issue than a normative concept or a fundamental value in human relations. In so doing, however, they overlook what has been a complex and enduring debate throughout the history of international relations, involving the proper relationships between individual, state and international community. They seem unaware of the existing ethics of security, their place in international practice, and the tensions which have existed in international relations since long before the term human security was ever coined. It is necessary, therefore, to frame the idea of security in normative terms, and consider the three traditions which inform the normative heritage of the idea of security, before considering how human security fits into this debate and what the implications of human security in international society are.

29 DFAIT, "Safety for People", 5.
30 DFAIT, "Safety for People", 5.
31 Heather Owens and Barbara Arneil, "The Human Security Paradigm Shift: A New Lens on Canadian Foreign Policy? Report of the University of British Columbia Symposium on Human Security" Canadian Foreign Policy, vol. 7, no. 1 (Fall 1999), 2: "Consensus developed during the round table that... human security could be considered a new lens which, if taken seriously, profoundly transforms the foreign policy landscape."
II. The Idea of Security, the State, and the Realist Tradition

The last chapter concluded that it was necessary to define and consider carefully the idea of security before entering into a discussion of the normative foundations of human security. Accordingly, this chapter will begin with a discussion of the concept and meaning of security, with particular emphasis on security as a fundamental value in human relations\(^1\). Once we begin to think of security in this normative sense, rather than as security as a "how to" question, we are confronted with the rich heritage of the political theory of international relations, a heritage which is characterized here as incorporating three distinct traditions of thinking about the proper clients of security—whether state, individual or international society—and their relationship to each other. The chapter will offer a cursory examination of each of these traditions, classified here as realist, revolutionist and rationalist, primarily to demonstrate the existence of the normative heritage of security, and to set the stage for more detailed examinations of each, to follow, which tie security into fundamental questions about the moral relevance of the person and of the state, their relationship, and ultimately the universal versus the particular in competing modes of ethical judgment in international relations. The last part of this chapter will move into this debate by interrogating the moral relevance of the state as put forward by realists, and by considering some of the paradoxes of security to which proponents of human security legitimately respond.

Security has ostensibly been the central problem of International Relations scholarship since the discipline was recognized as such in the early 20\(^{th}\) century. In this sense security, and its antonym insecurity, are terms which have largely been used to describe the diplomatic and military relationships between states, and the potential or occasional demise of these relationships into conflict and war. As discussed in the first chapter, until the end of the Cold War, the term security was largely conflated with the national military security of one state vis-à-vis other states. Where discussions of security were concerned principally with the instrumental practice of security by states

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and their agents, the goals, values, content and referents of security were taken as given and self-evident, and enjoyed predominance in IR practice and scholarship alike\(^2\). Since the end of the Cold War, however, the association between security and military defence and deterrence strategy has been re-examined, leaving a question mark around the basic meaning of the term “security”.

The very definition of security is more complex than it might seem at first blush, and is mired in conceptual debates about the content and referents of security. Part of the difficulty with the subject of security is, Barry Buzan notes, that the concept of security is “underdeveloped”: not only does the concept of security lack conceptual clarity, but despite its centrality as an organizing concept in the discipline of International Relations, the literature on security was, until recently, very unbalanced.\(^3\) Writing in 1991, Buzan offered several explanations for this conceptual uncertainty. First, the development of the idea of security in the twentieth century has been heavily influenced by historical context. The political climate of the Cold War, and the primacy of the realist perspective in American foreign policy circles, contributed to the widespread conviction that “states were... locked into a power struggle, and security was easily seen as derivative of power, especially military power.”\(^4\) Military power and national security appeared interchangeable at a time when military predominance was seen as the key bulwark against existential threat emanating from a perceived or real continuous proximity to “total war”\(^5\) or nuclear annihilation during the Cold War period. Within the framework of East-West antipathy, the need to secure the state seemed self-evident. Economic, social, political and environmental concerns were considered subordinate to the concept of security *qua* national security. Consequently, the sub-field of Strategic Studies, and its concern with issues of military strategy and instruments of force, became the conceptual home of the study of security in international relations.

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\(^2\) An important exception to this statement is Barry Buzan’s seminal book *People, States and Fear*, originally published in 1982.


\(^4\) Buzan, *People, States and Fear*, 8.

Second, this tendency was reinforced in the period of methodological upheaval between the 1950s and 1970s, when the predominance of behaviouralism with its "scientific, value-free and quantitative concerns"\(^6\), assured the conceptual prison of security within a (neo)realist, state-centric and policy-oriented framework. The empirical emphasis of Strategic Studies, oriented in large part towards national military policy, left little room for considerations of the normative meaning of security or the multifaceted implications of national security policies. In this way, the concept of security became permeated with an instrumentalist bias.

Finally, and perhaps most fundamentally, Buzan argues that security is an "essentially contested concept" which generates "unsolvable debates about [its] meaning and application because... [it] contain[s] an ideological element which renders empirical evidence irrelevant as a means of resolving the dispute... Essentially contested concepts delineate an area of concern rather than specifying a precise condition."\(^7\) In other words, the very meaning of security is caught up in metatheoretical and methodological debates over the boundaries, proper study and subjects of international relations.\(^8\) "What counts" in international relations, and in this context, what are we trying to secure: individuals? Collectivities? States? International society? What factors do we consider in determining security or insecurity? How do we even define or recognize those conditions? It was not until the 1980s that these questions began to be addressed in a sustained way. Even within this newly conceptually/theoretically oriented literature, however, the normative idea of security was rarely considered.

Bearing in mind these questions of methodology, meaning and interpretation within the discipline, we are left with a question mark over the basic definition of security, a particularly important and persistent question since the agenda of security studies began expanding in the 1980s with the work of peace researchers and others concerned with the historical, philosophical, and interdependent aspects of security.\(^9\) For

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\(^6\) Buzan, *People, States and Fear*, 10.

\(^7\) Buzan, *People, States and Fear*, 7.


his part, Buzan argues that “the nature of security defies pursuit of an agreed general
definition,” however he later offers that “[s]ecurity is primarily about the fate of human
collectivities, and only secondarily about the personal security of individual human
beings. In the contemporary international system, the standard unit of security is thus the
sovereign territorial state.” Of course, as we have seen, this is the very understanding
of security that proponents of human security take issue with.

I would submit that Buzan’s conflation of security with the state as “what security
is about”, while representing a traditional and widely accepted view of security,
nevertheless overlooks a more fundamental way of thinking about security. Subsuming
security under the state might tell us “what” the unit or level of analysis is in security
studies, or “how” security is implemented, but it does not address “why”. There is
nothing natural or inevitable about seeing the state as the sole provider of security. The
state is a socially constructed phenomenon, a human response to the question of
insecurity—the existence of threats—in social life. Clearly it is necessary to
acknowledge that the state has been the most successful security organization in the
history of humankind, that “[s]tates are by far the most powerful type of unit in the
international system... [which have] transcended, and often crushed, all other political
units.”

However, while the fact remains that the state has become the central vehicle for
the attainment of security, this points to more basic questions about the perceptions,
desires, needs, values, and choices of human beings and their membership in particular or
universal collectivities. Security is both a physical and psychological need and a
fundamental human good. It is both needed for the pursuit of broader goals and valued as
a quality in itself, much like freedom or justice. It is, in other words, “a foundation value
of human relations.” It is crucial to understand security in this normative sense because
it is prior to, and constitutive of, the instrumental and functional aspects of security.

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10 Buzan, People, States and Fear, 16.
11 Buzan, People, States and Fear, 19.
12 Buzan, People, States and Fear, 58.
13 Jackson, The Global Covenant, 185. R.N. Berki calls it a “chief human value” and “a good, a
fundamental value.” R.N. Berki, Security and Society: Reflections on Law, Order and Politics (London:
Further, such an approach uncovers a profound subtext in international relations about the practical or proper relationships between individuals, communities and the moral standing of states in international society, which is of particular interest to the present discussion.

In this sense, the quest for security, whether directly or indirectly through community, state or international organizations, is understood as a human response to the condition of insecurity, most fundamentally, to ‘personal’ insecurity: “the threat, imminent or remote, direct or indirect, imaginary or real, posed for individuals by other people, concrete persons, identifiable groups, larger and impersonal entities like the ‘system’, the ‘market’, the ‘establishment’ or even ‘society’ in the abstract.”

Personal insecurity can be generated by three groups of phenomena: that of “large-scale organized violence and deliberate destruction of human lives” in the form of intrastate or interstate conflict; that of economic recession or major economic dislocation; and that of the “threat posed to individuals by other individuals inhabiting the same social world, in proximity…” In short, human insecurity is an unfortunate by-product of the fact of human inter-relations and proximity, and the insecurity generated, purposely or otherwise, by those strangers around us who have the potential or desire to do us harm.

As almost all humans live in proximity to other humans, security is by definition a universal human concern. And like other aspects of the human condition, it has been an enduring subject of political and international theory, captured in a three-way debate about the proper relationship between the state, the individual, and international society. It is a debate which is seemingly overlooked by proponents of human security, recalling the idea of human security as a “focus” or “lens” noted above, and as evidenced by comments such as former Minister Axworthy’s that “[the] practice [of human security] has led theory.”

Indeed, it is this instrumentalist, ahistorical and theoretically ambiguous starting point which presents a point of departure for critics of the doctrine of human security. As

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14 Berki, Security and Society, 3.
15 Berki, Security and Society, 4.
16 Berki, Security and Society, 5.
discussed in the first chapter, human security evolves from a tradition of peace research, common security and a general challenge to a purportedly “realist” conception of national security exclusively conceived of in state-centric and militarist terms. Proponents of human security emphasize the need for security in an interdependent world of new threats and are particularly concerned with the individual security of citizens, the deficiencies of the international system of sovereign states, and the related existence of failed and unjust states which jeopardize individual security prospects. In responding to traditional (realist) approaches to national security and the state, proponents of human security characterize these alternately as “insufficient to guarantee people’s security”\textsuperscript{18}, potentially “disaster[ous]” and undermining the security of people\textsuperscript{19}, narrow and ignorant of the “legitimate concerns of ordinary people”\textsuperscript{20}, and incorporating “yesterday’s assumptions about sovereignty... lamentable and curious”\textsuperscript{21}. Realism itself is characterized as “an image of scientific rationality as indifferent to ethical concerns or human aspiration... especially ill-adapted as a framework for problem-solving and human betterment.”\textsuperscript{22} One author goes so far as to describe a realist framework and the corollary of state sovereignty as logically and morally indefensible.\textsuperscript{23}

All of these criticisms implicitly or explicitly display four characteristics. First, they criticize without first considering realism in all its depth, complexity and nuance. Realism is caricatured and condemned on this limited basis. Second, classical realism is generally confused with neo-realism/structural realism, and on those grounds criticized for a positivist, social scientific, rational-actor approach to human affairs which eschews moral and ethical considerations. Third, the position of personal security in the state, and the enduring relationship between the individual and the state in political theory, is

\textsuperscript{18} Department of Foreign Affairs and International Trade, “Human Security: Safety for People in a Changing World” (Ottawa: DFAIT, 1999), 1.
\textsuperscript{21} Lloyd Axworthy, “Kosovo and the Human Security Agenda” Notes for an Address by the Honourable Lloyd Axworthy, Minister of Foreign Affairs, to the Woodrow Wilson School of Public and International Relations, Princeton University, April 7, 1999. DFAIT Statement 99/28.
overlooked in the tendency to eschew state-centric approaches to security and the rights of the sovereign state. Finally, while claiming to bring human rights and related moral values into the fold of international relations, proponents of human security seem unaware or uninterested in the ongoing normative conversation of the political theory of international relations. This is suggestive of a reluctance to engage theory generally, the result being a monologue which is ahistorical, partial, impressionistic and sometimes lacking in coherence.

In response to the last two areas of criticism, it is necessary to highlight that in the political theory of international relations, there are three ways of thinking about security, each with a distinct—and not always compatible—relationship with the idea of personal security: realism (Machiavellianism or Hobbesianism), revolutionism (Kantianism), and rationalism (Grotianism). This three-fold characterization of international theory comes from Martin Wight\textsuperscript{24}; while it should not be taken as the sum total of international thought (indeed Wight himself warned against reification or “pigeon-holes”), it nevertheless offers paradigms or patterns to which many international thinkers approximate. As Hedley Bull noted, Wight “saw the three traditions as forming a spectrum, within which at some points one pattern of thought merged with another, as infra-red becomes ultra-violet.”\textsuperscript{25} In his own work, Bull emphasized that the modern international system reflected elements of each tradition, and each which at various times predominated over the others.\textsuperscript{26}

In this and the two subsequent chapters, each tradition will be discussed at some length; however. The point of this discussion will be to highlight the normative theoretical heritage of the concept of security, which is largely overlooked by proponents of human security, despite the fact that human security is firmly situated in the second of these traditions (revolutionism/ Kantianism), as the next chapter will demonstrate. It is


\textsuperscript{26} Hedley Bull, \textit{The Anarchical Society: A Study of Order in World Politics} 2\textsuperscript{nd} ed. (Houndmills, Basingstoke: Macmillan Press Ltd., 1995), 39.
also intended to argue the importance of normative inquiry, to emphasize that acknowledging the normative position implied by proponents of human security, and where it stands in an enduring debate with the two other positions, is crucial because it goes to the heart of the political theory of international relations, and the real or desired ethical relationships between individuals, states, and the moral standing of states in the international community. Ideas about these relationships, in turn, shape international practice.

Perhaps it is appropriate here to make explicit, and elaborate on, an important assumption informing the present work: the character and importance of explicitly normative inquiry in the study of international relations. In a recently published book, Molly Cochran describes normative International Relations (IR) theory thus: "normative IR theory takes as its subject matter the criteria of ethical judgment in world politics and seeks shared principles for extended moral inclusion... in international practice. That is, it aims to move beyond the understanding of IR as a modus vivendi by illustrating reasons for obligation owed in international practice that cannot be attributed to self-interest alone." Underlying this statement is the idea that norms, values, morals and ethical judgments in some degree inform all statecraft and the relations between states. Moreover, taken together these form distinct traditions of international ethics, and merge into that mode of thinking about human relationships known as political theory, which is concerned with the ethical nature of the relations between individuals, and communities/states. These traditions are fundamentally concerned with issues of security, freedom, order, justice, rights, obligation and "the search for such standards and for the reasoning that forms their justification" particularly the sources of morality.

In short, this thesis is concerned with normative reasoning in international relations, not with the instrumental, descriptive, explanatory or predictive sort of exercise

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27 The phrase explicit normative inquiry is intended to acknowledge a difficulty with the term “normative” inquiry, which may imply the existence of non-normative inquiry. As Chris Brown notes, in fact “a very great deal of what is traded in international relations as non-normative theory is steeped in normative assumptions.” See Chris Brown, International Relations Theory: New Normative Approaches (New York: Columbia University Press, 1992), 3.
which informs positivist approaches to the subject. That is not to say that such approaches are without value or importance, but rather that they seek to answer different questions than that which I am concerned with here, namely, what are the ethical foundations of human security and how do these accord with other ethical traditions which have informed international relations in the past and present? And what is at stake in the debate? With this focus in mind I will consider Wight’s three traditions in this and the subsequent two chapters.

It is necessary, at this point, to highlight the importance of the sovereign state in these approaches, while acknowledging variations on the moral relationship between state and individual in each. The sovereign state is an enduring and omnipresent form of human association, as any map of the world will suggest. It is concerned principally with security and order through the centralization of authority. In other words, personal security underpins modern society³⁰; it is the raison d’être of the state:

The most important distinguishing mark of our modern Western civilization as compared to others; the fact and expectation that the security of the single individual person is best left in the hands of the state, the most general, formal and abstract of all social formations... the state is universally regarded as being more important in this field that any other social grouping or institution.³¹

Indeed, international relations as we know it starts with the sovereign state, and “the debate in normative IR theory is distinguished by its concern with the question of the moral relevance of states. Respect for state sovereignty is a principal norm of international practice...”³² The idea of sovereignty thus bears closer scrutiny as it is a universal concept and a defining feature of the modern international system. It is also the starting point for any discussion of realism.

By sovereignty it is generally meant “the idea that there is a final and absolute authority in the political community... no final and absolute authority exists elsewhere than in the community.” ³³ Sovereignty and statehood are intimately linked, but not the same: the emergence of the state was a necessary, but not sufficient, condition of the concept of sovereignty. As Hinsley argues: “a community and its government must be

³⁰ Berki, Security and Society, 8.
³² Cochran, Normative Theory in International Relations, 10.
sufficiently distinct, as they are only when the government is in the form of the state, before the concept of sovereignty is relevant. But the appearance of the concept is still delayed until the community and its government, society and state, remaining necessarily distinct in some respects, have been integrated to a certain extent in others. In this sense sovereignty precludes theocracy, requires separation of church, state and society, and entails independent government. A state is a territorially defined grouping of people who acknowledge some shared identity and a central authority; sovereignty is the idea that that authority is free from outside interference.

A theory of sovereignty is first elaborated in Jean Bodin’s *The Six Books of a Commonweale* (1576), which was written during the civil and religious wars in France. Bodin sought to re-establish social order through the creation of a commonwealth and the centralization of political authority in the sovereign, “established either by the strength of some stronger than themselves, or by the power of some others, who voluntarily had subjected themselves together with their libertie, unto the power and pleasure of others, to be by them disposed of, as by a soveraigne power without any law at all.”

Sovereignty, in other words, was a direct and permanent relationship entered into voluntarily by ruler and ruled in which the people conferred their power, authority, and prerogatives on to the sovereign.

Sovereignty was defined by Bodin as “the most high, absolute, and perpetuall power over the citizens and subjects in a Commonweale... The greatest power to command.” It was the unlimited power to make all laws; it was by nature perpetual (unlimited in duration), absolute (without human superior, without condition) and indivisible (shared with none). Bodin reasoned that unless the sovereign alone had the unhindered and unrestrained power to make laws for public safety, to form alliances with other states, to declare peace and war, and to conduct diplomatic relations, it could not effectively undertake those tasks fundamental to the internal and external safety and survival of the community:

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34 Hinsley, Sovereignty, 21.
36 Bodin, *The Six Bookes of a Commonweale*, Book 1, Chapter 8, 84.
So wee see the principall point of soveraigne majestie, and absolute power, to consist principally in giving laws unto the subjects in generall, without their consent... For it behoveth that the soveraigne prince should have the lawes in his power, to change and amend them, according as the case shall require... even as the master pilot ought to have the helm always in his hand, at discretion to turne it as the wether or occasion requireth: for otherwise the ship might oftentimes perish before hee could take advice of them whom he did carrie.\textsuperscript{37}

Against the monarch’s execution of sovereignty, there could be no human judgment or intervention; while the sovereign was subject to the law of God and nature, it was God alone who could hold the sovereign to account through divine retribution.

Writing in the mid-seventeenth century, it was Hobbes (1651) who refined the idea of "soverainty of the ruler" into "sovereign statehood", in response to ongoing disagreement over whether sovereignty rested with the people or the ruler.\textsuperscript{38} As the English Civil War demonstrated, this conflict could be inherently destabilizing of the political community. Hobbes sought a new model of political authority which could raise humankind out of the anarchy of the state of nature, which he described as:

\begin{quote}
Whatsoever therefore is consequent to a time of Warre, where every man is Enemy to every man; the same is consequent to the time, wherein men live without other security, than what their own strength, and their own invention shall furnish them withall. In such condition, there is no place for Industry; because the fruit thereof is uncertain: and consequently no Culture of the Earth; no Navigation... no commodious Building... no Knowledge of the face of the Earth; no account of Time; no Arts; no Letters; no Society; and which is worst of all, continuall feare, and danger of violent death; And the life of man, solitary, poore, nasty, brutish and short.\textsuperscript{39}
\end{quote}

Like Bodin, Hobbes considered that human nature, based on competition, diffidence and glory\textsuperscript{40}, resulted in an anarchical "state of nature" in which there could be no personal security for anyone. Hobbes’ argument that "Covenants, without the Sword, are but Words, and of no strength to secure a man at all"\textsuperscript{41} is one of the most profound statements of the natural relationship between the individual and the state. Like Bodin, Hobbes argued that it is not until man transcends the state of nature through some contractual arrangement and the creation of a sovereign state that security, law, order, justice, civility and commerce could be realized.

\textsuperscript{37} Bodin, \textit{The Six Bookes of a Commonweale}, Book 1, Chapter 8, 98.
\textsuperscript{38} Hinsley, \textit{Sovereignty}, 134, 142.
\textsuperscript{40} Hobbes, \textit{Leviathan}, 185.
\textsuperscript{41} Hobbes, \textit{Leviathan}, 223.
Beyond this, Hobbes differed from Bodin in his abandonment of Bodin’s idea of a contract between the ruler and the people, advocating instead a contract between all equal individuals in a community, in which each agreed, in a spirit of reciprocity, and in the interest of security, order, and “the good life” to submit to a higher authority:

The only way to erect such a Common Power, as may be able to defend them from the invasion of Forraigners, and the injuries of one another, and thereby to secure them in such sort, as that by their owne industrie, and by the fruites of the Earth, they may nourish themselves and live contentedly; is, to conferre all their power and strength upon one Man, or upon one Assembly of men, that may reduce all their Wills, by plurality of voices, unto one Will... [who] shall act, or cause to be Acted, in those things which concerne the Common Peace and Safetie...This is more than Consent, or Concord; it is a reall Unitie of them all, in one and the same Person, made by Covenant of every man with every man... This done, the Multitude so united in one Person, is called a Common-wealth, in latine Civitas. This is the Generation of that great Leviathan...42

Indeed, it was only within a Common-wealth, a “unity” of all, presided over by the Leviathan, that notions of morality and law had a place, because the force of arms to implement the standards of community life were centralized and used judiciously. As Hobbes put it, “To this warre of every man against every man, this also is consequent; that nothing can be Unjust. The notions of Right and Wrong, Justice and Injustice have no place. Where there is no common Power, there is no Law: where no Law, no Injustice. Force, and Fraud, are in warre the two Cardinall virtues.”43 In short, without a Common-wealth—a sovereign state—the “good” life and its constituent values—be they freedom, justice, equality or whatever—would have little meaning.44 Further, without law and order, provided by the state, to minimize the sense or reality of threat, and to ensure order, cooperation and productive benefit in social, political and economic life would be impossible. Thus Hobbes’s work discloses two important points: first, the sovereign state was at once the source of law and justice; and second, it was the protector of all individuals in the community, ensuring stability and order to allow the pursuit of higher goals. Thus the state is both a moral entity, a source of legal and ethical values which are community-particular, not universal, and an instrumental association—a security arrangement. In these ways together, it is the embodiment of all individuals

42 Hobbes, Leviathan, 227.
43 Hobbes, Leviathan, 188.
within its bounds, the sum of their wills—at once protector and protected. Herein lies the moral relevance and "inherent value" of the state\textsuperscript{45} as put forward first by realists.

How does this all bring us to the realist ethical tradition in international relations? While it is true that Hobbes, generally considered the epitome of the realist thinker\textsuperscript{46}, said little about international relations per se, he did have a fundamental insight which followed, by analogy, from his theory of the sovereign state as discussed above. The sovereign state was by definition a discrete community, limited in space and clearly defined against other communities. The state has moral primacy over individual persons, other states, and the society of states because it is, at a minimum, the sum of its parts—each and every citizen within its jurisdiction. Inherent in the idea that statespeople are responsible first and foremost to their own states is "a familiar theory of political obligation: the state—whether it is formed by a social contract, by historical evolution, by conquest or by any other method—is a self-contained political community that is prior to any international associations it may subsequently join."\textsuperscript{47}

Thus the state was both inward looking, ensuring civic order and stability within, and outward looking, ensuring security without. Just as there can be only one authority to chart a course for public order, to implement coherently one law, and to organize state security, the same must apply externally. That is, no outside interference can be permitted to diminish the efficacy of these sovereign functions. No authority can exist above the sovereign. By definition, sovereign states preclude higher "world government". Just as any community without a Leviathan, or common power to keep the people in awe, was properly considered to be in a state of nature, so too then was the international system in a state of nature, being as it was without any superior authority and composed of other sovereign, self-regarding states. As Hobbes put it, "yet in all times, Kings, and Persons of Soveraigne authority, because of their Independency, are in continuall jealousies, and in the state and posture of Gladiators; having their weapons


\textsuperscript{46} Other classical realist thinkers include Thucydides, Machiavelli, Spinoza and Rousseau; Hobbes is one of the best known of these.

pointing, and their eyes fixed on one another... and continuall Spyes upon their neighbours; which is a posture of War.”

In essence, “[t]he Hobbesian tradition describes international relations as a state of war against all, an arena of struggle in which each state is pitted against every other” and the very survival of the state in constant jeopardy in an anarchical international system.

In this setting, the overriding imperative—indeed duty—becomes self-preservation and national security. Relations between states are necessarily relations of power. Because of an international environment of mutual suspicion and the ever-present possibility of war, the quest for power and security is a zero sum game in which one state gains only at the expense of another. In this context, and with an obligation to protect its citizenry, the sovereign “is free to pursue its goals in relation to other states without [external] moral or legal restrictions” beyond its own raison d’état, prudence and expediency. Self-interest prevails over moral principle by virtue of necessity and therefore of right, in relations between states; “[t]his can mean either that self-interest confers a positive right of some kind, as when the ‘national interest’ is seen as a moral principle, or that morality is wholly inapplicable to international politics.”

This point should not be taken to mean that for realists, there are no other standards of conduct for the statesman. To the contrary, as Machiavelli put it, animo, ambizione, appetito, ingegno, prudenza, fortuna and virtù are all essential ingredients in statecraft for “political success and survival in a dangerous world.” The point is rather that there is no ethical bond or international law between states—this is follows logically from Hobbes’s tenet that without a common power there can be no law, and with no law, no justice. The same point leads to the conclusion that there are no obligations or duties between states, or between individuals living in different states. The moral community is that within the sovereign state: created by agreement, legislated for and protected by one supreme authority.

52 Jackson, Quasi-states, 51.
To sum up thus far: security is a normative value in international relations; by this we mean that it is valued as a physical and psychological requirement for the pursuit of higher goals, but also a fundamental and universally sought-after human good, necessary to the human spirit much like justice or faith or freedom. This is a fundamental insight of realism, and from it follows the requirement of a sovereign state to provide security and order for the individuals living within its bounds. This idea was first and most concisely put forward by Bodin, writing in the sixteenth century. As he put it, "So the Commonweale having taken beginning if it be well rooted and grounded, first assureth it selfe against all externall force, and then against the inward diseases of it self, and so by little and little gathering strength, groweth up untill it be come to the full perfection of it selfe." The last phrase, "the full perfection of it selfe", suggests that the state becomes something higher along the way, of intrinsic quality. For Bodin, this was a community of moral and intellectual "contemplative virtues". For Hobbes, it was commodious living, realized through an orderly and prosperous state where industry, farming, learning, and the like, could thrive. This quality, this higher goal was a vision of the good life particular to the state and its own circumstances. Further, because no authority existed except that within the state, notions of law, morality, right, justice and obligation were particular and limited to that community. For the realist, in an anarchical international system these qualities, constituting the national interest, must be defended against all other states.

Of course, what is coherent in theory does not always play out in real life. In particular, three realizations have prompted a fundamental questioning of the realist national security ethic. First, many point to the "paradox of security" which exists: at a minimum, the provision of security by the state necessarily involves the curtailment of freedom. Following from the work of R.N. Berki, Barry Buzan notes: "Individuals (or collective human behavioral units such as states and nations) existing with others of their kind in an anarchical relationship, find their freedom increased only at the expense of their security." Rules of conduct limit the range of acceptable human action in order to

54 Bodin, *Six Books of the Commonweale*, Book 1, Chapter 1, 7.
55 Buzan, *People, States and Fear*, 37.
create a mutually stable and secure environment for the common good. Further, these
rules of conduct must be enforced by threat of force which "are frequently serious enough
to dominate the relatively small and fragile universe of individual security. Although
they are powerfully balanced by the domestic and external security which the state
provides, these threats, and therefore the contradiction between individual and national
security, are unavoidable." At worst, the security function of the state becomes a
justification for any variety of threatening activities which override the well-being of
individuals in that community.

Second, the realist ethic of national security, conceived of in military, zero-sum
terms, and the security dilemma which follows, creates public insecurity as a result of the
fragile balance of peace and the proliferation of weapons. We now live in a world in
which war potentially effects every member of society, from soldier to civilian. In an era
of weapons of mass destruction, conflicts between even two states threaten all states. A
realization has developed that state security requires international security; this will be
discussed in detail later in the thesis.

Finally, the existence of failed and failing states discloses a situation in which,
contrary to realist notions of the morality of the state, the state fails to provide security or
overtly creates insecurity for its citizens. The sovereign fails to fulfill its obligations, and
yet remains endowed of absolute juridical authority in international society. In
contemporary terms, this means that the legal sovereignty of the state survives
unquestioned as international society proclaims the primacy of sovereignty and non-
intervention. Within a realist ethical tradition, we are unable to pass judgment or respond
to human suffering outside our own state, because it is beyond our moral and legal
universe. To countenance such arguments in the face of extreme human suffering seems,
at times, an affront to human decency and compassion. Surely there is some set of
universal moral precepts, a "natural" law, which applies to all human beings, regardless
of nationality?

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56 Buzan, *People, States and Fear*, 50.
57 This insight comes from Jackson, *Quasi-States.*
Human security responds to this question affirmatively; it seeks to address the shortcomings of national security outlined above. The individual, rather than the state, becomes the primary concern of security practice dictated by a universal morality. But as the next chapter demonstrates, such a position requires a dramatically different normative framework—that based on a Kantian ethical tradition.
III. Human Security: The Solidarist Moral Community and International Law

In responding to the question posed at the end of the preceding chapter, namely, whether there is some set of universal moral principles, some “natural” law, which applies to all human beings, regardless of nationality, proponents of human security respond positively and emphatically. There is a standard of right action, of treatment of human beings, which is universal and transcends borders. This standard is based on an ethic of human rights—most fundamentally, the belief in the moral primacy of individuals and the basic rights which follow from this primacy, namely, life, liberty, equality and the civil and political rights which give substance to these imperatives. Implicit in such a framework is a particular mode of moral reasoning, recognizable first in the writings of the Stoics, and later, in the moral philosophy of Immanuel Kant. The argument here is that moral universalism is the normative foundation of human security, although one which is rarely, if ever, explicitly acknowledged. It is the purpose of this chapter to uncover these foundations and consider contemporary interpretations and implications of this Kantian/cosmopolitan/revolutionist framework.

Modern proponents of the Kantian view, notably Tesón and Beitz, interpret Kant’s philosophy as a solidarist ethic: a morality stemming from the solidarity and commonality of humankind, to be applied in international relations universally and largely without consequentialist considerations. A solidarist ethic seeks to shift the terms of international association away from a state or inter-state focus, towards an individual, cosmopolitan focus, on the basis of a universal moral imperative of human rights. Neo-Kantians arrive at policy prescriptions much like those of the proponents of human security in so far as they place greater moral value on the security and rights of the individual than that of the state, and seek to protect those human rights through various peaceful and forcible means. Such an approach carries with it particular implications for notions of international society, sovereignty and international law.

At this point it is useful to recap the key tenets of the ethic of human security as elaborated in chapter one. Recall that human security grew out of a reaction to the primacy of realist thinking in foreign policy and a growing disaffection with Cold War
security policies which emphasized a system of sovereign states in an anarchical, self-help world, policies which resulted in a nuclear security dilemma which posed a threat to humanity. Many argued that such a paradigm was theoretically inadequate and morally deficient. In the post-Cold War era these doubts have been compounded by the proliferation of failed states and civil conflicts which increasingly result in the massive suffering of civilian populations, whether through genocide, massive human rights violations, famine, disease or desperate poverty. Proponents of human security reject the views of Bodin and Hobbes, namely that the sovereign state is the supreme security organization, the outcome of a mutual obligation between ruler and ruled, and the source of morality, law and justice.

In contrast, an ethic of human security starts from the premise that security practice ought to be concerned *primarily* with “safety for people”, i.e. individuals, rather than primarily state or territorial security. I am concerned here with three important themes of the doctrine. First, I would highlight the position of the abstract, stateless individual as the central focus of foreign policy and the suggestion of transborder obligation to preserve the well-being of that individual. Hence the individual, rather than the state or the community, is accorded moral primacy. By virtue of human rights and humanitarian law, and the idea of universal standards, humans have universal entitlements to personal security. This entitlement seemingly creates an obligation on the part of the international community to act.

The second core theme of human security I wish to highlight is the use of force to implement the above-noted obligation. Where human security is about reducing vulnerability and minimizing risk resulting from a range of factors, especially intra-state military threats, ethnic conflict, transnational crime, economic destitution, and political repression, sometimes these goals cannot be achieved by outside states, within a reasonable time-frame, through peaceful means. In particular, the use of force to protect civilians from large-scale atrocities, massive human rights violations, famine, and genocide, has become the ultimate test of a commitment to human security. Humanitarian intervention is the hard case of human security, although clearly only one extreme in the human security policy repertoire.
The third point is that in such cases (most recently the case of NATO's use of force in order to protect Kosovo Albanians within the Serb-dominated Federal Republic of Yugoslavia), proponents of human security have justified the use of force with reference to the idea of "conditional" sovereignty. By this it is implied that the Charter prohibitions on outside intervention and the use of force against sovereign states, only apply if that state fulfils some basic requirements. Broadly speaking, such requirements include general respect for basic human rights and the provision of some modicum of security for citizens.

With these three themes in mind, I wish to turn attention to the normative heritage of human security. Recall the assumption which informs this thesis, noted in chapter two: human security builds on a particular and already existing tradition of normative thought which is concerned fundamentally with a particular view of the proper relationships between individuals, communities and the moral standing of states. Put differently, human security implicitly prescribes a particular concept of human association which is also discernible in past writings and practices of international relations. It is necessary to explore this normative heritage to understand more fully the practical and philosophical implications of human security; this is a task which proponents of human security have so far failed to take on, concerned as they are with the instrumental questions of foreign policy.

My argument here is that human security signals a revitalization of the cosmopolitan ethic. The term revitalization implies that such an ethic has existed in the past; indeed, the cosmopolitan ideal reasserts itself from time to time, beginning with the Stoics in ancient Greco-Roman times to the present. In a general sense, the cosmopolitan—or in Wight's terminology, the revolutionist\(^1\)—presents an ideal of moral conduct as universally valid across space and time. As Wight puts it,

\(^1\) Wight has been criticized by both Brown and Cavallar for characterizing Kant as a "revolutionist": both authors reject the term "revolutionist" with its connotations of sudden change and violence, arguing that Kant was interested in evolutionary and peaceful change. I think that Brown and Cavallar take Wight's terminology out of context. Wight is not interested in talking about revolutionary ideologies but rather a common thread that runs through such ideologies which resonates with Kant's universalism. Nevertheless, the term "cosmopolitan" will be used in place of Wight's "revolutionism", with the hope of avoiding any misunderstanding. See Chris Brown, *International Relations Theory: New Normative Approaches* (New
The Revolutionists can be defined more precisely as those who believe so passionately in the moral unity of the society of states or international society, that they identify themselves with it, and there they both claim to speak in the name of this unity, and experience an overriding obligation to give effect to it, as the first aim of their international policies. For them, the whole of international society transcends its parts; they are cosmopolitan rather than 'internationalist', and their international theory and policy has 'a missionary character'.

In the history of ideas, Wight points to the religious Revolutionists of the sixteenth and seventeenth centuries; the French Revolutionists (particularly the Jacobins); and the totalitarian Revolutionists of the twentieth century (fascists, communists) as notable examples of international Revolutionists. There is little philosophical continuity between these movements, with the exception of two important characteristics: first, the claim to a monopoly on the truth (or what Wight describes as assertions of "exclusive representativeness") and second, claims to embody a human commonwealth or a great society or super-state, of which individual states were citizens: a civitas maxima. Wight argues that such a claim entails that international relations is assimilated to "a condition of domestic politics. The more international society is conceived of as a civitas maxima, the more international relations will be conceived of as the domestic politics of the universal civitas. There are three possible ways of trying to bring about this assimilation: doctrinal uniformity, doctrinal imperialism, and cosmopolitanism." It is this last mode of thinking that we are concerned with here.

Cosmopolitanism can be traced to ancient Greco-Roman times. The Stoics, in particular, argued for the existence of a universal law of nature connected to a respect for humanity. In this view, we "should view ourselves as fundamentally and deeply linked to humankind as a whole, and take thought in our deliberations, both personal and political, for the good of the whole species", rather than allow all our particular local or national identities (which are valuable but secondary to our kinship to humanity) to bound our

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3 Wight, International Theory, 8.
4 Wight, International Theory, 12.
5 Wight, International Theory, 41.
6 On this point see also Brown, International Relations Theory, 23.
moral aspirations. This common identity of world citizenship and the universal moral
worth of every individual exists by virtue of reason as common to all humanity; this
commonality creates a universal entitlement to freedom and equality and legal and moral
obligations to others outside of our own communities.

These ideas greatly influenced the philosopher Immanuel Kant, writing many
centuries later in the late 1700s. Nussbaum argues that the Stoics’ ideas about reason and
personhood form a “deep core that Kant appropriates—the idea of a kingdom of free
rational beings, equal in humanity, each of them to be treated as an end no matter where
in the world he or she dwells.” Of course, Kant’s moral theory is complex, nuanced,
advanced; the student of international relations must be cautious in attempting to tease
out its application to the international realm, particularly in a modern context. As Mayall
notes, “[t]here is also a problem of translating the Kantian argument to fit the
circumstances of the contemporary independent world. His view of the international
community is so minimalist, confined in fact to a confederation of states pledged to non-
aggression, that it is difficult to know how he would have viewed contemporary efforts to
 prescribe universal norms of economic and social behaviour or the tendency to make the
propagation of fundamental human rights an object of foreign policy.” With this
proviso in mind, it is still possible to discern a Kantian cosmopolitan ethic in
contemporary arguments for human security. To demonstrate this, I will start with a few
words on Kant’s moral philosophy and then consider those works which relate explicitly
to international right, namely, Perpetual Peace (1795) and parts of The Philosophy of
Law (1796) and The Metaphysics of Morals (1797).

For the present purposes of discerning the basics of Kant’s moral philosophy, I
will consider Kant’s Groundwork of the Metaphysics of Morals (1785), setting out as it
does the “supreme principle of morality”, or a fundamental principle to guide the
formulation and application of moral laws. In formulating this principle, Kant argues that

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9 Nussbaum, “Kant and Cosmopolitanism”, 36.
10 James Mayall, “Introduction” in James Mayall, ed. The Community of States: A Study in International
11 Clearly Kant’s Groundwork only lays out the foundations of a much more complex and extensive
argument about the a priori nature (or “metaphysics”) of morals and its application to the real world in the
form of a concrete set of duties; this complete argument is found in the Metaphysics of Morals (1797).
knowledge of moral principles is *a priori* knowledge grounded in human reason—quite separate from human experience, empirical knowledge, or the achievement of material ends. As Kant argues, "A good will is not good because of what it effects or accomplishes—because of its fitness for attaining some proposed end: it is good through its willing alone—that is, good in itself." There is a clear distinction between moral reasoning and instrumental reasoning; similarly, we cannot judge what *ought* to be from what *is*.

Rules for human conduct can be derived from human reason, good will, duty, freedom and autonomy, what Kant considers the most fundamental of human capacities and their value. In formulating moral rules, however, it is necessary to be guided by "the supreme principle of morality":

Nothing is left but the conformity of actions to universal law as such, and this alone must serve the will as its principle. That is to say, I ought never to act except in such a way that *I can also will that my maxim should become a universal law*. Here bare conformity to universal law as such (without having as its basis any law prescribing particular actions) is what serves the will as its principle, and must so serve it if duty is not to be everywhere an empty delusion and a chimerical concept. The ordinary reason of mankind also agrees with this completely in its practical judgments and always has the aforesaid principle before its eyes.

That you ought to "*act only on that maxim through which you can at the same time will that it should become a universal law*" is the supreme principle of morality, or Kant's categorical imperative. It is "the ultimate condition of all particular moral laws and all ordinary moral judgments. From this all moral laws must be 'derived'." Kant's point here is that there is an *absolute* and *objective* set of moral truths which can be recognized as such by their "universalizability". Such a test prevents the misappropriation and misuse of moral maxims by human needs, wishes and inclinations, which would surely "pervert their very foundations and destroy their whole dignity." It also means that moral laws hold for every human being, by virtue of the "common reason

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14 Kant, *Groundwork*, 70. Emphasis in the original.
17 Kant, *Groundwork*, 73.
of mankind”—and are not formulated by, or limited to, the discrete political community, as Hobbes argued. As Brown notes, “[w]hat is crucial to a cosmopolitan attitude is the refusal to regard existing political structures as the source of ultimate value.” There are positive duties which we owe to those within and outside of our communities.

In thinking about our relations with others, Kant constructs a further absolute standard of moral action, a secondary formulation of the categorical imperative:

If then there is to be a supreme practical principle and—so far as the human will is concerned—a categorical imperative, it must be such that from the idea of something which is necessarily an end for every one because it is an end in itself it forms an objective principle of the will and consequently can serve as a practical law. The ground of this principle is: Rational nature exists as an end in itself... The practical imperative will therefore be as follows: Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end.

The imperative to treat all humans as ends in themselves, and not as means, imposes “a limit on all arbitrary treatment of them.” Further, it is a universal requirement in human relations, and ought to create a moral framework shared by humanity, in what Kant calls “the kingdom of ends”, a systematic union of all rational beings under common objective moral laws. These laws would be consistent with the fundamental requirements of universalizability and the treatment of humans as ends in themselves. In short, the centerpiece of Kant’s moral philosophy is its universality, a moral code which springs not from a particular community, but from the notion of a shared humanity based on reason. It is also “thoroughly deontological” in nature, meaning that it is agent-centered and places “emphasis on an agent’s moral motives, and [allows] principles and precepts to override consideration of consequences.”

Cosmopolitanism, or Kantian universalism, then, posits that all human beings, by virtue of their capacity for reason, have equal and intrinsic moral value and the right to be treated as ends in themselves, rather than as means. Moral treatment and action is

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18 Kant, *Groundwork*, 73.
20 Kant, *Groundwork*, 96. Emphasis in the original.
21 Kant, *Groundwork*, 96.
required by "the existence of a cross-cultural moral truth" or the categorical imperative which demands that all humans, by virtue of their humanity (distinguished by shared rationality) be treated as ends in themselves, rather than as means, and consequently as citizens of a single moral order. Moral certitude is attained through the demand of practical reason. The outcome of rational deliberation is a "common morality" which transcends the moral practices of particular communities. Common morality is absolute in nature, and eschews prudential or consequentialist considerations in moral reasoning.

Kant’s moral philosophy is applied to his political philosophy in determining how communities ought to be governed. Here Kant’s starting point, similar to Hobbes, is that the natural condition of human kind, the state of nature, is one of violence and war and a highly undesirable state of affairs. Thus, a formal "juridical" and "civil" state is required, by virtue of what he described as the unavoidable co-existence with others. Such a state, created by social contract and rational consent, was required as a safeguard against violence and to create "the conditions, under which it is alone possible for every one to obtain the Right that is his due." Not just any form of state will do, however. Since all individuals are inherently free moral agents, authoritarian or arbitrary government is considered coercive, immoral and therefore illegitimate. Where a state is defined as a union of "a multitude of human beings under laws of right", it must necessarily be structured in accordance with pure principles of right—particularly freedom, equality and independence—which ought to serve as the basis for its constitution. As Kant states, "the well-being of a state is understood, instead, [as] that condition in which its constitution conforms most fully to principles of right; it is that condition which reason, by a categorical imperative, makes it obligatory for us to strive after." For Kant, the civil constitution of every state must

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24 Donaldson, "Kant’s Global Rationalism", 143.
25 Donaldson, "Kant’s Global Rationalism", 143-144.
27 Immanuel Kant, The Philosophy of Law (Edinburgh, T&T Clark, 1887), 155.
28 Kant, The Metaphysics of Morals, 90.
29 Kant, The Metaphysics of Morals, 95. Emphasis in the original.
therefore be republican. This is Kant’s first definitive article for a perpetual peace among humankind, and, more particularly, among states.

States, like individuals, exist first in a state of nature. Analogous to the tendency between one individual and another to violence in the state of nature, Kant argues that a state, as a “moral person”, is also “considered as living in relation to another state in the condition of natural freedom and therefore in a condition of constant war.” States were obligated to leave this condition of war, which Kant considered wrong in the highest degree because it killed people, destroyed property, threatened security and justice, and caused despotism and tyranny. War ran contrary to the categorical imperative and a kingdom of ends. In order to achieve a “perpetual peace”, states needed to form a league of nations in accordance with the idea of a social contract, not with the purpose of meddling in each others’ internal affairs, but rather to protect attacks from without. Such a league was an association or federation of republican states. This association could be renounced at any time and required constant renewal.

This association was to be structured according to Kant’s three definitive articles for a perpetual peace: first, the civil constitution of every (member) state ought to be republican, as this was the only form of government compatible with the rights of liberty, autonomy and equality. Second, Kant’s article that “[t]he public right ought to be founded upon a federation of free states” is taken to mean that only those states which leave the state of nature and form the type of federation discussed above, are entitled to the rights of international law and the reciprocity that entails. Finally, Kant’s third definitive article, that “[t]he cosmopolitical right shall be limited to conditions of universal hospitality”, requires that every foreigner has a right not to be treated as an enemy in the country in which he arrives. It is the “right all men have, of demanding of

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34 Kant, *Perpetual Peace*, 23.
others to be admitted into their society; a right founded upon that of the common possession of the surface of the earth..."  

Hence Kant did not consider that the universal rights of humankind would be realized through a single world government or super-state but rather by the union of separate nation-states. These states and their respective national rights were intertwined and united by the universal right of humankind—or “cosmopolitical right”—and resulted in the concept of a natural international right, *jus gentium*. *Jus gentium* is understood in the Kantian sense as a law of nations based on a “law of nature whose principles, being universal, would be found in the particular laws of each people or state.” Only through a voluntary union of legitimate states (legitimacy being founded on a social contract and civil right), or “Permanent Congress of Nations” could the international state of nature—war—be overcome, a “perpetual peace” realized, and individual human autonomy and freedom assured.

In a modern context, Stoicism and Kantian cosmopolitanism—with their emphasis on reason as common to humanity, *a priori* moral ideals versus consequentialist reasoning, and the categorical imperatives of universality and treatment of individual human beings as ends and not means—lay the groundwork for a contemporary ethic of human rights. In addition, it is important to acknowledge the Christian influence, and the existence of a *Respiblica Christiana* in the intervening period between the Stoics and the Enlightenment. As Vincent argues:

> The main stations along the route to the modern idea of human rights are, it might be said, well enough established. First come the Stoics, so influential in Roman jurisprudence, who started the process off by disparaging the parochialism of the classical Greek *polis*, and upholding the idea of a single city of mankind in which the equal worth of individuals was recognized, and also their participation on rational grounds, in a great common enterprise. Then, secondly, there is the fortification of both aspects of this doctrine—its individualism, and its conception of a global community—in the Christian gospel of individual salvation, and the actual or potential unity of all people in Christ. In the third place, there is the double-station marking the assault on medieval ideas by the Renaissance and the Reformation...  

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36 Kant, *The Philosophy of Law*, 162.
38 Kant, *The Philosophy of Law*, 224.
Vincent notes Kant’s contribution in developing a secular account of this Christian doctrine of universality and equality. He argues that what is striking about the place of rights in contemporary western political theory is not that they offer a new and radical way of contemporary thinking, but rather that these rights-based theories continue to rely on, and defend, the traditions which established them. Donaldson agrees:

Most contemporary rights-based theories are also deontological theories with Kantian affinities. Rights are principles that assign claims or entitlements to someone against someone, and are usually interpreted as “trumping” or taking precedence over consequential claims made in the name of collective welfare. Hence, both in their similarity of form (as a principle universally applicable to relevantly similar situations), and in their similarity of function (as taking precedence over collective, consequential considerations), they satisfy two key deontological/Kantian criteria.

Kant’s emphasis on the imperative of freedom, equality, and autonomy for the individual resonates in the liberal ideal of human rights, the same ideal which forms the basis of the doctrine of human security. In this sense, human security must be viewed as the inheritance of a particular ethical tradition which offers a coherent framework in which to think about human rights, obligation and intervention, and the autonomy of states.

In terms of obligation, we may consider that rights provide rules of conduct which oblige rulers to act in a certain way towards their citizens, and presumably ought to imply that some action will be taken if these rulers do not act accordingly. Modern writers have inferred from Kant’s work that the universal moral code of the categorical imperative entails obligations not only to citizens of our own state, but also to foreigners and other foreign nations. The individual, not the state, is the primary object of moral value and human rights become the fundamental code for moral action in international relations, regardless of nationality. The international community becomes a “solidarist” association of shared purposes and obligations—those of the protection and promotion of the well-being of human beings qua individuals—within a framework of conditional state sovereignty. In a solidarist association, states are considered “merely one of a number of intermediate levels of political organization... [and] the arrangements defined by local custom and by the laws of the state are thought to be qualified by a higher law based on

40 Vincent, Human Rights and International Relations, 32-35.
41 Donaldson, “Kant’s Global Rationalism”, 150.
the premise of the equality of all persons." Hence, with the idea of fundamental and absolute rights comes the idea of correlative duties and obligations to uphold these rights through intervention into the internal affairs of foreign states.

For Kant, however, there was some ambivalence on this point. Kant upheld the principle of non-intervention in the Fifth Preliminary Article of *Perpetual Peace*, stating that "[n]o state shall by force interfere with either the constitution or government of another state." However, Kant goes on to argue that a state wrought by revolution did not qualify for the same rule of non-intervention. In addition, there are other conditions on the rule of non-intervention, qualifications which may open up a few possibilities in interpretation. Recalling, for example, Kant's dictum that a state is a union of "a multitude of human beings under laws of right", it is difficult to imagine that Kant would defend the autonomy of a state in which no laws of right existed—indeed, such a situation which disclose a state of anarchy, and the state itself would cease to exist.

Charles Beitz, for his part, argues that Kant's fifth preliminary article is superceded by Kant's insistence that every legitimate state be a republican state, and that therefore "the nonintervention rule does not apply to forms of intervention that might promote or defend the development or survival of republican forms of government." Beitz, in rejecting the Hobbesian/realist view of international relations, takes a cosmopolitan and contractarian approach to argue that a state's claim to autonomy rests on conformity with appropriate principles of justice. Where conformity with these principles is not met, "there are circumstances in which intervention might be permissible, but it does not imply that such intervention is always morally required." In short, while there appears to be no necessary and automatic obligation of forcible intervention for cosmopolitans, such action seemingly remains acceptable.

47 Cavallar considers this argument in some depth. See Cavallar, chapter 5 "Non-intervention, Humanitarian Intervention and Failed States", *Kant and the theory and practice of international right*, 81-93.
Fernando Tesón has recently taken a neo-Kantian approach to elaborate what he considers the proper relationship between moral obligation, the state, international society and international law. He argues that a proper reading of Kantian philosophy discloses that sovereign states exist only to benefit, serve, and protect the individual human beings who inhabit the earth: respect for states is derivative of respect for persons. States have no intrinsic moral value but are an instrumental association to achieve ends common to humanity as a whole. Legitimate, worthwhile states should be only those states that ensure justice, human rights, and democratic self-government.

In this view, any international society which might exist ought to be constituted exclusively by legitimate, liberal democratic states and a solidarity of purpose. International society should be but another intermediate level of political organization to serve members the universal association of humankind. As such, it must organize and rule itself according to the categorical imperative and a universal moral code based on human rights. For Tesón, human rights ought to have the status of *jus cogens*; they should be the most important peremptory norm of international law. The requirement for republican constitutions should be equally important:

International law is concerned... with incorporating those rules and principles that are deemed to be just on a global scale. First among them is the principle of a republican constitutions proposed by Kant... The republican constitution (the liberal-democratic society), far from being idiosyncratic, is *objectively* right. It is not tied to empirical circumstance or historical accident. The republican constitution derives from the categorical imperative, form the exercise of rational faculties by autonomous agents capable of articulating the pure concept of right... To be consistent with justice... international law must [also] include the requirement that states respect human rights.  

According to Tesón, this “liberal international law” would require respect for three broad rules. First, international society would be an exclusive community of liberal democratic states: tyrannical governments would be treated as outlaws, without any rights or benefits conferred by membership in the alliance. Second, as a liberal theory of international law...

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51 Ironically, Kant himself opposed democracy, arguing that democracy, a situation in which sovereignty was “exercised by all the members of society”, was “necessarily despotism, as it establishes an executive power contrary to the general will; all being able to decide against one whose opinion may differ; the will of all is therefore not that of all: which is contradictory and opposite to liberty.” Kant’s preference was for republicanism, in which “the executive power (the government) is separated from the legislative.” See Kant, *Perpetual Peace*, 15.
is premised on the protection and rights of individuals, no action by a liberal or illiberal state that would violate these rights would be permissible anywhere, or at any time. Finally, in this world order it would be permissible, if not obligatory, to use force in order to protect persons, and derivatively, to protect representative (legitimate) governments and states.53

From the above it is clear that Tesón eschews legal positivism, arguing that an international legal system, where it is based on the practice of states and centers on the norms of sovereignty and non-intervention, allows despotic rule and (gross) violations of human rights. Such a system is “morally deficient in a fundamental way” as it disregards Kant’s categorical imperative.54 Instead, Tesón concludes that “the better view includes moral analysis as an integral part of international law.”55 International law should seek to be prescriptive rather than descriptive. Tesón’s view is, implicitly, a Kantian perspective, and consistent with the natural law idea that “the basic principles of all law (national as well as international) were derived, not from any deliberate human choice or decision, but from principles of justice which had a universal and eternal validity and which could be discovered by pure reason.”56

While a Kantian cosmopolitan “kingdom of ends” hardly exemplifies present international reality, in fact the principles espoused by Kant, and his contemporaries Beitz and Tesón, are evident in human rights discourse between states, even if this discourse has not been the dominant one. As Robert H. Jackson notes

The Kantian image of a cosmopolitan world society consisting of individuals with natural rights immune to political intervention has made considerable headway in recent decades. An elaborate body of international law pertaining to human rights has been developed by the UN, including a Universal Declaration of Human Rights (1948) and an International Covenant on Civil and Political Rights...There has also been special conventions against particular humanitarian offences, such as slavery, genocide, racial discrimination, and torture. In addition, regional human rights instruments have been established in Western Europe, the Americas and Africa.57

53 Tesón, A Philosophy of International Law, 19.
54 Tesón, A Philosophy of International Law, 15.
55 Tesón, A Philosophy of International Law, 26.
Further, the Kantian and neo-Kantian works discussed are a theoretical statement of some core ideas in human security. As the beginning of this chapter demonstrated, human security proclaims the individual as the central moral priority of international relations and a motivating force for international action. The language of the proponents of human security reflects the ideas of Kantian contemporaries, who argue for a world where the universal human rights of the individual are the central standard of state behavior, and respect for state sovereignty is contingent upon respect for human rights. It is argued that consequentialist reasoning ought to be subordinate to a priori moral principles.

In short, the Kantian cosmopolitan ethic, Tesón's neo-Kantian formulation of a liberal international law, and human security all presuppose a solidarist international society with shared values and universally recognized ends. Global society, its institutions and its laws, ought to revolve around the respect for, and enforcement of, universal human rights, by force if necessary. The moral community is universal, united by reason, a singular idea of good and moral conduct, and a solidarity of purpose and obligation. The next chapter explores whether this has in fact been the empirical reality or ideal standard of international relations in the twentieth century. In so doing it necessarily considers an alternative ethical framework to realism and cosmopolitanism, that of the Grotian/ international society tradition. This tradition discloses the incommensurability of the solidarist and pluralist positions, particularly with regard to sovereignty and the use of force, while avoiding the pessimism and insularity of the realist tradition.

58 Of course, it is important to recognise that statements made by politicians are often also rhetorical and driven by political imperatives far removed from the moral reasoning of philosophers. Nevertheless, such statements reveal moral justifications for state actions in international relations.
IV. Pluralist International Society and Positive International Law

As the last chapter suggested, the (neo-)Kantian cosmopolitan ethic of human security is evident in existing international human rights and humanitarian law. But, to reiterate, it is one ethic of several, and it cannot at this time be called the dominant ethic. Like Martin Wight, Hedley Bull argued that throughout the history of the modern states system there have been three competing traditions of ideas about the existence of international society which attempt to both describe and prescribe international conduct:¹ the Hobbesian or realist tradition, the Kantian/revolutionist/cosmopolitan tradition, and the Grotian/rationalist/international society tradition. What Bull argued was that each of these traditions co-exist, each at some time more dominant than the others. Following Bull’s reasoning, the argument of this thesis is that the doctrine of human security signals a revival and re-emergence of Kantian solidarism, which entails a notion of universal morality and a prescription for a particular mode of governance and moral conduct for states. In contemporary terms, human security and Kantian cosmopolitanism have become the antithesis of Cold War Hobbesian realism.

As suggested above, human security advocates decry the realist security ethic of the Cold War which was equated with the military power of states characterized in zero-sum terms, nuclear deterrence, and proxy wars in the Third World—creating, as a result, massive human insecurity. At the same time, the only alternative offered is a Kantian cosmopolitan ethic of universal human association. The realist and Kantian positions are considered mutually exclusive: they become the basis for a dichotomy, with realism/national interest/international amorality on one hand, and Kantian universalism/community of humankind/international morality on the other. Tesón’s work is a case in point, contrasting a Kantian approach with a realist one, and rejecting out of hand a realist framework and the corollary of state sovereignty as logically and morally indefensible.² The difficulty with this dichotomy is that it overlooks an intermediate position—the international society perspective—which seeks to temper the amoral

international "anarchy" described by realists, while recognizing the limits of a singular moral universalism in a pluralist world. Indeed, it has been argued that "this Grotian counterpoint to Realism dominant in modern international relations theory has often been underestimated."³

Bull's influential book The Anarchical Society demonstrated that there has always been present a society of states, or international society, which, although existing in an anarchical system marked by an absence of world government, nevertheless observes common rules and institutions which regulate the conduct of its members. Bull calls this the Grotian tradition—a tradition which prescribes that "all states, in their dealings with one another, are bound by the rules and institutions of the society they form... states in the Grotian view are bound not only by rules of prudence or expediency but also by the imperatives of morality and law"⁴ with the ultimate purpose of securing, at a minimum, peaceful co-existence. These rules and institutions, always present although at some times stronger than others, mitigate the excesses of the realist anarchy and security dilemma:

The element of international society has always been present in the modern international system because at no stage can it be said that the conception of the common interests of states, of common rules accepted and common institutions worked by them, has ceased to exert an influence. Most states at most times pay some respect to the basic rules of co-existence in international society, such as mutual respect for sovereignty, the rule that agreements should be kept, and rules limiting resort to violence.⁵

Bull argues that in international society, the key institutions which have maintained international order, now and in the past, are the balance of power, diplomacy, war, great power responsibility, and international law. The members of this society are states.

Wight and Bull were not the first to theorize on the existence and rules of international society. While relations between nations and some idea of rule-based behaviour can be recognized in many ancient civilizations, including Greek, Hebrew, Assyrian, Babylonian, Hindu and Chinese societies, and later, in the ecclesiastical law of

⁵ Bull, The Anarchical Society, 40.
had the emergence of the nation-state in the sixteenth century Europe which spurred the development of the ideas of international society and international law. The work of many prominent thinkers of the sixteenth to eighteenth centuries remain classics of international law literature. Writers such as Vitoria, Suárez, Grotius, Pufendorf, Van Bynkershoek, Wolff and Vattel made important contributions to the development of the laws of war, neutrality, colonial conquest, freedom of the seas, treaties and diplomatic practice. Underlying this work was the idea that there was a society or community of sovereign states in which there existed some interrelationship between members. States were in certain ways dependent on each other, and therefore required a body of rules to govern their relations.

Of these writers, Hugo Grotius is particularly well-known. Often called the "father of international law", Grotius has had an enduring impact on the development of international law, and is regarded as the seminal thinker of the international society tradition. For this reason, it is worthwhile to consider Grotius' work in brief detail, particularly his De Jure Belli ac Pacis, (or the Rights of Peace and War) (1625). While doing so, however, it is necessary to keep in mind that the nature and significance of Grotius' work has been broader than the specific content of this book. The assumption of the existence of international society is not discussed at length by Grotius, but rather presented in the Prolegomena in a somewhat cursory but nevertheless suggestive fashion; in the remainder of the work, the rules which he proposes for international conduct in war certainly assume the existence of such a society. It is these assumptions of Grotius'
work that are most relevant to the present discussion, as opposed to his detailed writings on the laws of war, of treaties and of property, as prominent as these have become in contemporary international law and attempts to regulate the use of force in international relations.\textsuperscript{12} Grotius' fundamental assumptions regarding the features of international society, and the interpretations which have arisen from Grotius' work since then and up until the twentieth century, together form the Grotian tradition. As Kingsbury and Roberts note:

Much more lasting, though, have been Grotius' ideas on certain fundamental features of international society. These ideas have been refined and recast in different ways as later generations have grappled with old or new problems in their contemporary contexts. The text has in some measure evolved away from its author, while retaining an oscillating link to the system around which he sough to construct it.\textsuperscript{13}

Indeed, it is the Grotian tradition that Wight and Bull were primarily interested in, particularly its formulation of the idea of an international society of states.\textsuperscript{14} This idea of an international community, with common rules and institutions, is a feature largely absent in the other two ethical traditions discussed thus far. Certainly from this formulation of international society followed an intense debate about the degree of cohesiveness of that society; however, this issue will be put aside for the time.\textsuperscript{15}

With this proviso, a few points on Grotius' \textit{The Rights of War and Peace} will be made, with particular emphasis on the content of the \textit{Prolegomena}. Grotius' starting

\textit{Jure Belli ac Pacis Libri Três}, vol. 2 translated by Francis W. Kelsey and edited by James Brown Scott (London: Wildy and Sons Ltd., 1964), 20.\textsuperscript{12}

As Bull notes, for example, "Since the First World War the Grotian doctrine of the distinction between just and unjust causes of war, and the limitation of lawful causes of war to the former, has been written into positive international law." See Hedley Bull, "The Grotian Conception of International Society" in Herbert Butterfield and Martin Wight, eds. \textit{Diplomatic Investigations: Essays in the Theory of International Politics} (London: George Allen & Unwin Ltd., 1966), 55.\textsuperscript{13}

Kingsbury and Roberts, "Introduction", 5.\textsuperscript{14}

Benedict Kingsbury, "Grotius, Law, and Moral Scepticism: Theory and Practice in the Thought of Hedley Bull" in \textit{Classical Theories of International Relations} in Ian Clark and Iver B. Neumann, eds. (Houndmills: Macmillan Press Ltd), 42. On the idea of a Grotian tradition, see Kingsbury and Roberts, "Introduction", 51-64.\textsuperscript{14}

See Hedley Bull, "The Grotian Conception of International Society", 51-73. Bull argues that Grotius advocates a solidarist international society based on natural law, a society in which "ultimately", if implicitly, the members are "not states but individuals" (p. 68). This certainly seems to muddy the three-fold typology Bull later makes in \textit{The Anarchical Society}. I wish to avoid any confusion over the use of the term solidarism at this point, focusing instead on the basic idea of international society and how the tradition is understood in contemporary terms. As Bull himself notes, "the positions of Grotius and of the twentieth century neo-Grotians are quite distinct." (p. 66)\textsuperscript{15}
point, like other writers of his time, is the state of nature. In contrast to Hobbes, however, Grotius argues that the state of nature is not necessarily a state of savagery, injustice, or chaos; rather, "Man is, to be sure, an animal, but an animal of a superior kind, much farther removed from all other animals than the different kinds of animals are from one another... among the traits characteristic of man is an impelling desire for society, that is, for the social life—not of any and every sort, but peaceful, and organized according to the measure of his intelligence... He has also been endowed with the faculty of knowing and of acting in accordance with general principles."\(^{16}\) The capacity for law and justice comes not from expediency, as Hobbes suggests, but from "the very nature of man."\(^{17}\) These human characteristics—reason, judgment, and the desire for peaceful society, for organization, and for general principles of justice with which to regulate social life—together suggest the possibility of a body of law based on human intelligence and notions of reciprocal obligation between individuals living in a community.

The sovereign state is assumed to be the embodiment of this law\(^{18}\). Grotius describes a state as "a perfect body of free men, united together in order to enjoy common rights and advantages"\(^{19}\), a power whose "actions are not subject to the legal control of another."\(^{20}\) He points out that there are many such states on the face of the earth. Such a collection of states forms a situation analogous to the state of nature among individuals, and consequently there arises a need and desire to have some form of organization and regulation: "If no association of men can be maintained without law, as Aristotle showed by his remarkable illustration drawn from the brigands, surely also that association which binds together the human race, or binds many nations together, has need of law..."\(^{21}\) Thus there is a "law of nations"; the suggestion of such a law implies

\(\begin{align*}
\text{16} & \text{ Hugo Grotius, } De \text{ Jure Belli ac Pacis Libri Tres, } 11-12. \\
\text{17} & \text{ Grotius rejects the view of Carneades that "Expediency is, as it were, the mother of what is just and fair is not true, if we wish to speak accurately. For the very nature of man, which even if we had no lack of anything would lead us into the mutual relations of society, is the mother of the law of nature." } Grotius, De \text{ Jure Belli ac Pacis Libri Tres, 15.} \\
\text{18} & \text{ although the state of Grotius' time (at the birth of the Westphalian era) might have looked very different from the nation-state of modern times, in so far as state might denote principality, city-state, etc.} \\
\text{19} & \text{ Grotius, The Rights of War and Peace, 25.} \\
\text{20} & \text{ Grotius, } De \text{ Jure Belli ac Pacis Libri Tres, 102.} \\
\text{21} & \text{ Grotius, } De \text{ Jure Belli ac Pacis Libri Tres, 17.}
\end{align*}\)
the existence of some type of society or community, bound together by mutual need, whether in the form of occasional assistance or reciprocal order:

law is not founded on expediency alone, there is no state so powerful that it may not some time need the help of others outside itself, either for purposes of trade, or even to ward off the forces of many foreign nations united against it. In consequence we see that even the most powerful people and sovereigns seek alliances, which are quite devoid of significance according to the point of view of those who confine law within the boundaries of states. Most true is the saying, that all things are uncertain the moment men depart from law.22

It should be noted that Grotius’ work has been interpreted by modern writers as describing a predominantly Christian, European international society, the values of which were claimed to be universal, even if membership was not.23 As Kingsbury argues: “[in] the thought of Grotius… the values of international society were Christian, even though social bonds extended to non-Christians… the international society was predicated on universalist assumptions more than on a conception of separate sovereignties…”24 Nevertheless, viewing Grotius’ work in contrast to other writers of his time, and in the context of a tradition, Grotius’ writings mark an important development in the doctrine of international society.

Finally, Grotius believed that there are both natural law and positive law components of the law of nations, although clearly he leaned towards natural law—“the dictate of right reason, showing the moral turpitude, or moral necessity, of any act from its agreement or disagreement with a rational nature”25 as the most significant source of law and obligation between states.

Here it is important to note that as international law developed, it became increasingly distinguished by these two main schools of thought: naturalism and positivism. The naturalists, led by Grotius (who was inspired by Francisco Vitoria, Francisco Suarez, Alberico Gentili; and whose work was followed by Samuel Pufendorf, Christian Wolff, and Emmerich de Vattel26), agreed that the basic principles of both

22 Grotius, De Jure Belli ac Pacis Libri Tres, 17.
23 See, for example, Hedley Bull, The Anarchical Society, 27-31.
26 Malanczuk argues that Vattel is known for his attempt to combine naturalism and positivism. See Peter Malanczuk, Akehurst’s Modern Introduction to International Law, 7th ed. (London: Routledge, 1997), 17;
international and municipal law were based on reason and equity, and “were derived, not from any deliberate human choice or decision, but from principles of justice which had a universal and eternal validity and which could be discovered by pure reason; law was to be found, not made.” Natural law was universal and consistent across nations, forming the basis of international law.

Positivists, in contrast, began to argue from the early 18th century that law comes from custom, experience, treaties, wisdom and history. In terms of international law, positivism regards the actual practice and agreements of states as the basis of law. Early well known advocates of this theory of law included Cornelius van Bynkershoek, Richard Zouche, Samuel Rachel and later Georg Friedrich von Martens.

Bynkershoek’s work is perhaps best known and represents a clear break from naturalism:

Bynkershoek’s work is entirely free from the incubus of theology... The law of nature is practically ignored in this discussion. Nor is he much concerned with the just-war doctrine. While he finds the sources of law of nations in reason, he does not envisage the dogmatized reason of scholastic tradition but the use of common sense in finding the best and most equitable solution. Support of reason should be sought, according to Bynkershoek, primarily in treaties and in widely established precedents. He takes his documentation on the whole from modern times. Treaties and decrees... are his favorite type of evidence...

In the positivist view, international law is distinct from religious or moral reasoning. While the content of moral and legal systems may coincide, the validity of law is not contingent upon adherence to moral principles and it follows that international law cannot be deduced from natural law. In the seventeenth and eighteenth centuries, international society was limited to Western Christendom and remained structured around universalist natural law assumptions.

It is not until the nineteenth century that natural law is superceded by positive law and the primacy of the customs and agreements of states. At this time, international law came to be “clearly recognized to be the essential basis of association among the states of Europe, rather than such contingit features or conditions of their association as

however, Nussbaum notes Vattel as one of “the foremost representatives of the “naturalist” school of international law of the period.” Nussbaum, Concise History of the Law of Nations, 164.

27 Malanczuk, Akehurst’s Modern Introduction to International Law, 15.

28 According to Malanczuk, while positivist arguments were apparent in the 18th century they were not fully accepted until the 19th century. See Malanczuk, Akehurst’s Modern Introduction to International Law, 16.


geographical propinquity, cultural similarity, religious or ideological agreement, or common interests." As Nardin argues, "It is only in the eighteenth century that the idea of a states system whose unity is provided by its own distinctive institutions—those of diplomacy, the balance of power, and international law—really emerges as an independent and fully articulated conception of the character of European international society." International society became a legal rather than cultural unity, although the term continued to refer to the relations of European states. Criteria for membership became formalized and membership was exclusively European unless non-European states met "the standard of civilization".

At this point it is useful to discuss the two fundamentally different conceptions of international society, and the cohesion, if any, of that community. Terry Nardin's work in this respect is most illuminating. In *Law, Morality, and the Relations of States*, Nardin highlights the distinction between purposive and practical association. Purposive association denotes an international society structured on the basis of shared purposes, interests and values. Where rules exist, the rationale for these is to further some set of common goals, for example trade, economic development, or religious and political doctrine. Examples of attempts to structure an international (though not necessarily universal) society around a purposive association include the Protestant Reformation, the Catholic Counter-Reformation, and the French, Bolshevik and National Socialist revolutions. The international society of Western Christendom was certainly a purposive association. The common feature of all of these epochs in history is that members of this society were "united by their convergent desires for the realization of a certain kind of outcome that constitutes the good they have come together to obtain."

The idea of practical association denotes a framework of international relations based on shared rules and practices rather than shared values and purposes. Historically,

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33 Turkey was the first to pass this test under the terms of the Treaty of Paris, 1856. See Bull, *The Anarchical Society*, 32.
34 See Nardin, *Law, Morality and the Relations of States*, 3-5.
a framework for practical association has included the international rule of law (based on both custom and treaty), diplomatic convention, and other standards of international behaviour. The foundations of practical association are to guide, limit, or constrain conduct on the basis of common and authoritative rules and procedures. Practical association permits co-existence and even co-operation in relations between states with divergent or conflicting goals:

There is another mode of relationship that is more fundamental because it exists among those pursuing divergent as well as shared purposes. Durable relations among adversaries presuppose a framework of common practices and rules capable of providing some unifying bond where shared purposes are lacking. These practices are extremely important for international relations of any regular, enduring sort for they not only regulate such relations but define and facilitate them. Specifically, by prescribing restraint, toleration, and mutual accommodation according to authoritative common standards of international conduct, they make it possible for states pursuing different ends to co-exist and they provide procedures on the basis of which particular transactions and purposive cooperation can be arranged.37

As we will see, this mode of international association becomes increasingly important as international society expands to include non-European states, and states of diverse ideological, cultural and religious character, in the twentieth century. Before that time, however, practical association takes root in the 19th century through the increased institutionalization of positive international law.

As the 19th century progressed, a perception developed that greater structure was required for the governance of European international society, which hitherto had been fairly decentralized. As the rules and customs of this society became established, its members sought to institutionalize these further:

The first diplomatic congresses reflected rather a perception that international order, which was understood to include, but not to be limited to, the observance of international law, was not something that could safely be left to itself. Order—at least the kind of order reflected in the stable co-existence of independent states—did not simply occur. It had to be created and, once established, to be maintained. International relations on the basis of agreed principles could not be enjoyed without effort; some deliberate system was required. The system required to be governed.38

Subsequently, three key institutions stand out as attempts to govern international relations from the end of the Napoleonic wars to the present: the Concert of Europe, the League of Nations, and the United Nations.

37 Nardin, Law, Morality and the Relations of States, 5.
38 Nardin, Law, Morality and the Relations of States, 84-85.
The Concert of Europe, or, in Nussbaum's terminology, the Concert of the Great Powers, formally existed from the end of the Napoleonic wars to 1914, but in practice its efficacy and cohesion was challenged in the 1850s as a result of the Crimean War, and changes to the (European) family of nations with the unification of Germany and Italy. The Concert was the least structured of the three and was constituted in the main by periodic, if irregular, consultations among the Great Powers of Europe. During this period the idea of international society expanded to include treaty relationships with Latin America, China, Japan, Siam and the United States, among others. These relationships were based on the European international law tradition and were accompanied by remarkable proliferation in bilateral and multilateral treaties of commerce, consular treaties, treaties on extradition, monetary treaties, treaties governing postal, telegraph, and railway communications, prohibition of the slave trade and humanitarian treaties governing warfare, to name a few. Also of note during this century was the use of arbitration in the settlement of disputes both through tribunals and the Permanent Court of Arbitration. This period of lawfulness and the accompanying shift towards an international practical association was disrupted with the onset of World War I in 1914.

Following that war, the League of Nations was created by the Covenant of the League of Nations, which formed the first part of the Treaty of Versailles. The framers of the Covenant sought to establish a more formal and permanent structure of international governance than that of the Concert, with the purpose of preventing further warfare by restricting the use of force. Further, they sought to "construct a governing organ that would in certain important ways transcend the division of international society into separate states... [which] rested on a belief in the reality of a universal community of individuals united by a shared interest in the flourishing of international commerce and in the peaceful settlement of disputes." Notwithstanding this cosmopolitan attitude towards purposive association, the League was more fundamentally concerned with establishing an international rule of law among states. Hence the League functioned in executing the peace treaties, as a forum for the settlement of disputes (through the

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41 Nardin, Law, Morality and the Relations of States, 98.
Permanent Court of Justice and other tribunals), as a forum for reaching agreement on some important terms of international association (notably the Locarno Pact, the Kellogg-Briand Pact, the General Act for the Pacific Settlement of Disputes, and various other conventions) and in administering the mandates. It was, however, hampered in its activities by the absence or withdrawal of several great powers, namely the United States, Russia, Germany and Japan. Its impotence was most visibly demonstrated by the unchecked expansionist activities of Japan, Italy and Germany, and the League was terminated at the outbreak of World War II in 1939.

The institution of greatest interest to the present discussion is the United Nations (hereafter the UN), established in 1945 at the end of the Second World War according to the terms of the UN Charter. The UN and the Charter remain the most powerful institutions for the international rule of law and international society, although certainly they have functioned imperfectly in the last 55 years, particularly during the Cold War period. The purposes of the United Nations, as stated in Article 1 of the Charter, are, broadly speaking, to maintain international peace and security; to develop "friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples"; to achieve international cooperation to deal with problems of a social, economic, cultural or humanitarian character; to promote and encourage respect for human rights and fundamental freedoms; and "to be a centre for harmonizing the actions of nations in the attainment of these common ends".

The United Nations represents a global international society in a way that its predecessors did not, by virtue of its near-universal membership. Further, as suggested by its purposes, the UN, and its various organizations, are based in part on cosmopolitan principles such as respect for individual human rights, justice, and a desire for social and economic progress among the peoples of the world. Consequently, Bull and Nardin both point to the United Nations as a purposive association of sorts. Nardin, for his part, argues that "the ideal of practical association—of association in terms of a common law—has in effect been abandoned in the Charter itself" because the Charter does not

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42 See Bull, The Anarchical Society, 38.
43 Nardin, Law, Morality and the Relations of States, 105.
make the observance of international law obligatory, and there is "no formal obstacle to
count that is indifferent to or...deliberately contrary to the traditional principles and
practices of international law." Arguments such as this, however, overlook important
aspects of the current system of international society as constituted in the UN, the
Charter, and the international legal system, which suggest that international society, as
provided for in the Charter regime, is a practical association, fundamentally ordered
around the rule of law.

It is important to recall the context and reasons for the establishment of the United
Nations. As stated in the first paragraph of the Charter's Preamble, this is "to save
succeeding generations from the scourge of war, which twice in our lifetime has brought
untold sorrow to mankind..." The highest goal of international society is the
preservation of a general peace, order, and lawfulness among all states; "it is the
collective good of the whole society and not merely the individual good of particular
member states or alliances." Accordingly, the prohibition on the use of force, and the
prevention of war through collective security, form the foundation of the Charter and are
codified in Article 1(1) which states that the United Nations will "maintain international
peace and security, and to that end: to take effective collective measures for the
prevention and removal of threats to the peace, and for the suppression of acts of
aggression or other breaches of the peace, and to bring about by peaceful means, and in
conformity with the principles of justice and international law, adjustment or settlement
of international disputes or situations which might lead to a breach of the peace."

Underlying the preoccupation with peace, security and conflict resolution is an
acceptance that the goals and interests of the states constituting the international system
frequently come into conflict. States are capable of minimal agreement: they agree on
the need for international order, despite their competing views of justice. More
fundamentally, the Charter regime implicitly acknowledges that the values of states,
flowing from particular and historically situated cultures and experiences, may be different and sometimes incompatible. Sovereign states are considered to embody distinct social groupings with varying conceptions of the “good life” and the best way to organize social life. Where there are shared values and interests among states, these may be tenuous and shifting for various reasons. What is required is a more durable and predictable basis for association. As Mapel and Nardin suggest, “noninstrumental society is the form of international association most compatible with the freedom of its member communities to be different... According to rule of law positivism, this way of constituting international society encourages international ethnic, religious, and ideological diversity and peaceful coexistence.”

In international society it is common practices—in particular the international rule of law—that provide the primary terms of international association and action. The existence of common practices, customs and rules is intended to form the basis of peaceful co-existence among states, as well as a neutral means to make judgments about just and unjust international conduct, to make claims concerning rights and duties, and to seek redress when these rights and duties are ignored. International society entails an authoritative process of settling disputes, and establishing and maintaining expectations of behavior and right conduct shared by all states. This fundamental process, and the body of rules (customary international law) it has generated, is rule of law positivism. As Nardin argues,

rule of law positivism makes general rules the basis of international society. What distinguishes a society of states from a jumble of ad hoc transactions is that its members acknowledge, as authoritative and binding, common laws that are antecedent to their particular transactions and agreements. Because these laws must be common to all, they are found only in customs binding on states generally, not in treaties, which bind only states that are party to them... It is the self-understanding of states as bound by common rules that constitutes the society of states.

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49 Terry Nardin, Law, Morality and the Relations of States, 34-35.
The United Nations Charter codifies and provides an enforcement mechanism for the some of the key\textsuperscript{51} customary rules which constitute today's international society\textsuperscript{52}. It serves as an international constitution of sorts.

International society in its present form is constituted by an obligation to adhere to several basic, but universally applicable, principles. These core principles, codified in Article 2 of the UN Charter, and clarified by the Friendly Relations Declaration of 1970, can be summarized as follows: respect for the sovereign equality, territorial integrity and political independence of all UN members, fulfillment in good faith of obligations flowing from the Charter, the peaceful settlement of disputes, non-interference in the domestic jurisdiction of any state, and the non-use and non-threat of force, as noted above. Sovereignty, non-intervention and non-use of force are the foundational principles of international society presently constituted, and therefore require further comment.

First, sovereignty here is understood in the legal/juridical sense: a sovereign state is one that is constitutionally, legally independent, provided it fulfils the four criteria set out in the 1933 Montevideo Convention on Rights and Duties of States.\textsuperscript{53} As a legal entity, "a sovereign state is not subordinate to another sovereign but is necessarily equal to it by international law."\textsuperscript{54} This concept must be distinguished from the empirical concept of sovereignty which is an observable, substantive condition of states, in so far as they have or do not have genuine and complete control over their decision-making processes, and are able to exercise this control to provide internal order, a minimum of public goods, and external security. Empirical sovereignty discloses differences in

\textsuperscript{51} This is \textit{not} to say that the Charter is a comprehensive statement of customary law. Many customary rules exist which are not mentioned in the Charter, such as the laws of the sea, outer space, and air space, to name a few.

\textsuperscript{52} Custom is constituted by practice and \textit{opinio juris}, the psychological element of practice. Customary international law can be identified from several sources, namely, the actual practice of states, some treaties (particularly multilateral ones that purport to codify custom, such as the 1969 Vienna Convention on the Law of Treaties), documentary sources produced by the United Nations, the writings of international lawyers, and judgments of international tribunals.

\textsuperscript{53} The Montevideo Convention provides that a state should possess a permanent population, a defined territory, government, and the capacity to enter into relations with other states. See Malanczuk, \textit{Akehurst's Modern Introduction to International Law}, 75.

wealth, power, prestige and capability among the states of the world. Legal sovereignty is uniform. It is possible to have juridical statehood without empirical statehood.55

Second, Article 2(7) of the UN Charter, which states that “[n]othing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state…,” codified the customary international legal norms of sovereignty and non-intervention which have served as the foundation of inter-state relations since the Peace of Westphalia in 1648. Intervention without the consent of the target state is widely held to be unlawful and incompatible with the notion of sovereignty. In international society, legal sovereignty is understood and accepted to be universal and absolute—without it, states could not be held responsible for their international acts. To accept that some states would be “more” sovereign than others (i.e. that some states’ sovereignty and right to non-intervention is subject to conditions, while other states’ is not) would present a quagmire of complications in international law as presently understood and practiced. International law is currently premised on the notion of sovereign, autonomous states with the authority and capability to negotiate, enter into, and implement treaty commitments, and well as upholding customary legal obligations. To have a system of uneven and conditional sovereignties would diminish the legal competence of states generally. In addition, the erosion of the principle of reciprocity would undermine the certainty and inter-state order that has developed since the end of the Second World war.

Third, the most profound type of intervention is that involving the use of force, and international society has been unequivocal that such activity is contrary to the purposes and rules of the association of states. Attempts to control and limit the use of force are a central feature of the modern legal system56 and a comprehensive prohibition on the use of force is embodied in Article 2(4) of the UN Charter which states that “All members shall refrain in their international relations from the threat or use of force against the territorial integrity of any state, or in any other manner inconsistent with the Purposes of the United Nations.” As a rule of customary international law with the status

55 See Jackson, Quasi-States, chapters 1 and 2.
56 This discussion is taken largely from Malanczuk, Akehurst’s Modern Introduction to International Law, 309-311.
of *jus cogens*\(^57\), it is of universal validity and therefore applicable to all states in all circumstances except for those provided for in Chapter VII concerning self-defence (Article 51) and threats to international peace and security (Article 42). These exceptions to the rule of non-use of force are very narrow in nature; this has been confirmed not only by the Friendly Relations Declaration of 1970, but also by International Court of Justice (ICJ) decisions in the *Corfu Channel* and *Nicaragua* cases.

This is, admittedly, a restrictionist view of the permissibility of the use of force, yet it is one which is consistent with the pluralist view of international society and positive international law. It is a *general* position which, by and large, is not contentious—until the issue is intervention for the purpose of protecting citizens of other countries from gross and widespread human rights abuses. Indeed, the issue of the use of force in the context of humanitarian intervention draws into the discussion human security, international human rights and humanitarian law and the obligation, if any, of international society to uphold these commitments. This question highlights the sometimes conflicting values of the Charter: namely, respect for human rights on one hand, and the legal primacy placed on the norms of sovereignty and non-intervention on the other.\(^58\) The issue is complicated by the fact that there is no consensus within the positivist tradition of international law, or the international community, regarding the legality of humanitarian intervention. While an adequate treatment of the issue of humanitarian intervention is beyond the scope of this dissertation, a few brief comments will be made.

The debate within the positivist international law tradition is between "restrictionists" and "counter-restrictionists"\(^59\) and revolves around four main issues: interpretation of the UN Charter; interpretation of UN General Assembly resolutions and

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\(^{57}\) As Simma notes, the *jus cogens* nature of the prohibition of the use of force is such that "it is accepted and recognized by the international community of states as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same peremptory character." See Bruno Simma, "NATO, the UN and the Use of Force: Legal Aspects" in *European Journal of International Law*, vol. 10, no. 1 (1999), 3.

\(^{58}\) See Catherine Guicherd, "International Law and the War in Kosovo", *Survival*, vol. 41, no. 2, (Summer 1999), 20.

International Court of Justice (ICJ) judgments; interpretation of customary law; and an assessment of the likely consequences of a widespread practice of humanitarian intervention. Those who take a restrictionist view of the use of force argue that the primary purposes of the UN are the maintenance of order, peace and security (narrowly defined), and thus exceptions to Articles 2(4) and 2(7) of the UN Charter are limited to those expressly allowed for in Chapter VII of that document, noted above. Restrictionists argue that state practice clearly discloses that there is no customary or treaty law which allows humanitarian intervention; further, they suggest that until there is, humanitarian intervention and the use of force to restore human rights to foreign populations will remain an arbitrary exercise of power, rather than an authoritative practice accepted within the framework of international law, and therefore ultimately subversive of international order.

Contrary to this position, counter-restrictionists point to the human rights aspects of the Charter, particularly the Preamble and Article 56\textsuperscript{60}, and argue that these provisions create obligations and implicit authority on the part of member states to take forceful action for the protection of human rights. This authority is considered to be reinforced by other sources such as the ICJ decision in the *Barcelona Traction Case* and treaties such as the Convention on the Prevention and Punishment of Genocide (1948) and the International Covenant of Civil and Political Rights (1966), which purportedly provide legal recourse to forcible military action in the event of the violation of key provisions of those agreements.\textsuperscript{61} Ultimately, however, the fact remains that states have chosen not to exercise these prerogatives nor rely on them explicitly in the justification of their acts. Up until the end of the Cold War there was a marked reluctance to intervene. Since that time (and particularly since Operation Provide Comfort in Iraq in 1991), where a de facto humanitarian intervention has taken place under the auspices of the United Nations (and with the authorization of the Security Council) the interveners have generally justified their actions on the basis of the maintenance of international peace and security as

\textsuperscript{60} Article 56 reads “All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set out in Article 55.” Article 55 (c) lists one of those purposes as being “universal respect for and observance of, human rights and fundamental freedoms…”

opposed to the enforcement of human rights and humanitarian law.\textsuperscript{62} The point is that the use of force remains highly circumscribed and it remains necessary to justify its use under the terms of the Charter. As Guicherd notes,

The combined right of victims to assistance and the right of the Security Council to authorize humanitarian intervention with military means do not amount to a right of humanitarian intervention by states, individually or collectively. Indeed, the overwhelming majority of international lawyers consider that such a right cannot be recognized because it would violate the Charter's prohibition of the use of force.\textsuperscript{63}

Certainly UN-sanctioned activities such as those in Bosnia, Haiti, Liberia and Somalia suggest an increasing willingness to intervene in the internal affairs of failed or warring states to protect human rights and respond to humanitarian suffering. However, the Security Council's reluctance to authorize forcible interventions without the consent of the target state (witness the recent case of East Timor and the Council's insistence on Indonesia's consent\textsuperscript{64}), together with the pains that the Security Council has taken to emphasize the "unique", "extraordinary" and "exceptional"\textsuperscript{65} nature of each intervention, and the continued respect for the sovereignty, territorial integrity and political independence\textsuperscript{66} of each state, suggests that forcible, non-consensual humanitarian intervention using military force remains outside the normative framework of international society.

To summarize, then, the development of international society has been slow and gradual, and has taken place over centuries of doctrinal developments and state practice—from the writings of Hugo Grotius and his contemporaries of the seventeenth and eighteenth centuries, to the development of the institutions of international law in the form of custom and treaty, to the proliferation of diplomatic exchanges and consultations,

\textsuperscript{62} What were essentially humanitarian actions in northern Iraq, Bosnia-Herzegovina, and Somalia, for example, were justified as responses to threats to international peace and security, as stated in Security Council Resolutions 688 (5 April 1991), 770 (13 August 1992), and 794 (3 December 1992), respectively.
\textsuperscript{63} Guicherd, "International Law and the War in Kosovo", 23.
\textsuperscript{64} See Security Council Resolution 1264 (1999), 15 September 1999, wherein the Council states "Welcoming the statement by the President of Indonesia on 12 September 1999 in which he expressed the readiness of Indonesia to accept an international peacekeeping force through the United Nations in East Timor... [and] Reaffirming respect for the sovereignty and territorial integrity of Indonesia...".
\textsuperscript{65} See, for example, Security Council Resolution 794 (1992), passed 3 December 1992, which authorized a deployment of troops to create a secure environment for humanitarian assistance in Somalia.
\textsuperscript{66} See, for example, Security Council Resolution 836 (1993) passed 4 June 1993 which authorized the use of force to protect safe areas in Bosnia-Herzegovina.
and the evolution of organizations such as the Concert of Europe, League of Nations and United Nations to regulate international relations. In this respect, the Grotian tradition has come to describe international relations as taking place in the context of a society: a group of states, who, recognizing a common need for stability, reciprocity and predictability in their interactions, agree to abide by certain universally recognized rules and customs. This is the international rule of law. This society is structured not around common goals and values (although common values may exist and inform state action from time to time), but rather around a procedural consensus: an agreement to make decisions and respond to other states in a predictable and consistent manner.

The debate around human security, as described in the previous chapters, appears to be locked between Realists and Kantians. The former perspective, in which power relations reign supreme, offers little hope for solving the conflicts and dilemmas of today’s interstate system, nor does it seem to accurately or comprehensively describe the cooperation and legal order of the post-Cold War environment. The neo-Kantians, in contrast, who lead the demand for “human security”, seem prepared to implement revolutionary change in international society, by ignoring the rules and procedures which have evolved to maintain peaceful co-existence, particularly where the use of force is concerned. They do so with apparently little concern for the consequences of such action, as will be demonstrated in the final section’s discussion of human security and the case of Kosovo.

The Grotian tradition, however, offers a middle ground in describing and prescribing international association. While it does not deny that power politics, such as those described by Realists, and shared values, as described by neo-Kantians, exist and are a factor in international relations, Grotians insist that neither offers a firm basis for sustained relations in a pluralist international society. Rather, the tradition offers a means of constraining power, at the same time as it enables intrastate values to change over time, within a consensual legal framework of treaty and custom. The merits of the Grotian tradition, and the need to preserve a rule-based international society, will be elaborated upon in the concluding section.

Recent policy statements and practices of human security have unwittingly unleashed a debate which go to the heart of some fundamental questions about political life. Although barely acknowledged by the framers of policy, the words human security, and security generally, are part of a distinct language of normative inquiry which stretches back centuries. Security is a fundamental human good—intrinsic to the human spirit, like justice or freedom. Accordingly, there exists around this concept a profound conversation in political and international theory about its provision. This dialogue speaks to the real or desired relationships between individuals, membership in a community, obligations flowing from that membership, and the moral standing of states in international relations. Invariably conflicts arise from the different responses which have been made to these questions. The voices in this dialogue come from three sides, led by Hobbes, Kant, and Grotius. This thesis has examined in some detail the traditions of thought spawned by these thinkers, respectively: realism, revolutionism, and rationalism.

From this examination of the classical traditions of the political theory of international relations, it should be plain that there is a rich normative heritage to the idea of security. Each of these traditions speaks explicitly to the position of the individual or the state in the provision of security, and reflects in some way past or present human experience. Realism is concerned with the security of the state, where the state is the embodiment of the moral community of individuals, a community whose integrity is constantly threatened in an anarchical and war-prone international system where power rules. The Kantian tradition recognizes a universal moral community of all humankind, in which every individual is equally entitled to personal security regardless of his or her nationality. States are considered a fact of human organization but nevertheless largely extraneous to this relationship of humanity; however, the worthiness of a state is judged by its treatment of its citizens according to a global standard of the categorical imperative. Finally, the Grotian perspective, like realism, recognizes and values the state as a moral and legal entity, but considers the relations between states as based on mutual
respect and a notion of common rules. Orderly co-existence is preserved through the maintenance of security, peace, and order within the community of states and the continued integrity of the institution of sovereign statehood. I have argued that the Grotian perspective best describes the current terms of international association, that is, an international society based on the rule of law and ordered around three key principles: respect for sovereignty, non-intervention in the internal workings of the state, and the non-threat and non-use of force. Human security, informed by a (neo-)Kantian ethic, presents a challenge to this association, particularly where it calls for forcible humanitarian intervention without the consent of the target state.

I have demonstrated how human security mirrors a Kantian/neo-Kantian cosmopolitan ethic, which argues the existence of a universal, *a priori* morality based on the common reason of humanity, and consequently sees the rational individual as the central moral referent in international relations. In the contemporary view, human rights are the central code of conduct and the basis of international law and forcible actions to ameliorate massive breaches of human rights. States and international society are merely instrumental to the achievement of this universal moral imperative, and consequently state sovereignty and the right to freedom from interference and from the use of force by another state are contingent upon respect for human rights and democratic liberal government. International society is in this view not a society of all states, sovereign and equal, but rather an association of humankind united by a singular conception of human rights and how best to govern social life: a solidarist global community. International action is premised on a notion of universal morality, rather than the prudential or consequentialist considerations which inform realist and Grotian-informed action.

In order to better understand the challenge human security presents to the current terms of international society, it is perhaps useful to contrast the universalist and pluralist ethics and their respective positions on moral community, sovereignty, non-intervention, the use of force, international society and international law. The first distinction to be made between the solidarist (Kantian) and pluralist (international society) positions is with respect to *moral community*. The former group sees the existence, or at least the potential for, a single moral community of humankind, united by reason. The latter
group argues that the world is made up of diverse and discrete communities, separated by historical experience and culture. These communities are presently constituted into states. Morality and community are thus intertwined: solidarists argue that a single moral truth exists which is applicable to, and shared by all of humankind, across cultures and communities. Pluralists disagree: in their view, morality is particular to communities and each will have its own distinctive vision of “the good life”.

Kantians argue that state sovereignty is conditional upon respect for universally applicable human rights, and the state is therefore an intermediate form of political association. Where the state fails in this responsibility, intervention to address human rights abuses, by force if necessary, is permissible. In contrast, pluralists argue that states are the embodiment of particular communities, and each state has its own inherent moral value and rights of sovereignty and self-determination. The corollary of this is independence and non-intervention, crucial to the free pursuit of the community’s notion of the good life. Accordingly, intervention and the use of force, combined with differing values and interests, are surely a recipe for widespread war and suffering. Solidarists argue that as with states, international society is purely instrumental to the realization of human rights; it is therefore likely an exclusive association of liberal states. Pluralists agree that international society is instrumental, but is instrumental to the attainment of peace and order, and not shared moral purposes.

Finally, solidarists view international law as properly incorporating moral principles generally and human rights particularly: international law ought to be prescriptive. They consider the statist model of legal positivism morally deficient in so far as it bases laws on practice rather than morality. Pluralists, however, see law as an authoritative social practice valuable because it is agreed upon by states through practice and treaty. In this view law is distinct from morality and is concerned not with “the destination”, but rather “the road” to get there. International law is generated by the agreement and practice of states. It is descriptive rather than prescriptive.

In short, human security is complicated by these very fundamental debates in international political theory. What is the source of community, morality, and law? These debates are important because from them we recognize the world we live in and
the constraints which follow from this reality. The practice of human security in foreign policy is likely to be undermined by the gap between revolutionary (neo-)Kantian philosophy and the broad reality of international relations structured around the rule of law, particularly where the policy remains wedded to the use of force. The conflict between these two traditions became very evident in the recent example of NATO's humanitarian war over Kosovo.

Certainly the case of Kosovo highlights the terrible dilemma facing international society when a sovereign state flouts human rights and humanitarian law in the treatment of its own citizens. A brief history is in order: Kosovo Albanians had been subject to increasing oppression since the 1989 revocation of Kosovo's autonomous status and the imposition of martial law by the Yugoslav government. The conflict escalated into a low-level civil war when in 1997 the Kosovo Liberation Army (KLA) launched guerrilla-style attacks on Serbian authorities. Serbian reprisals were harsh and disproportionate, and frequently directed at civilians. Despite a ceasefire negotiated in October 1998, and the presence of OSCE monitors, Serb reprisals escalated in 1998 and early 1999. In January 1999, the grisly massacre of 45 ethnic Albanian civilians at Racak, together with the movement of increased government troops into the region, signaled the deterioration of the situation and international fear that a wholesale ethnic cleansing of Kosovar Albanians was imminent. When in February and March 1999, NATO-imposed February talks at Rambouillet and Paris ended without agreement from the Serbs, NATO made good on threats to launch air strikes against Yugoslavia.

The Security Council had been actively involved in the conflict, passing resolutions such as Security Council Resolution 1199 (23 September 1998) expressed grave concern "at the recent intense fighting in Kosovo and in particular the excessive and indiscriminate use of force by Serbian security forces and the Yugoslav Army which have resulted in numerous civilian casualties and, according to the estimate of the Secretary-General, the displacement of over 230,000 persons from their homes..." and demanding that all parties cease hostilities and respect a ceasefire. However, two of the Permanent Five, Russia and China, "had consistently made it clear that they would veto any proposal for military action against Yugoslavia against conduct in its own territory.
Equally consistently they stressed the importance of the non-intervention norm as the essential basis of the UN and of the present system of international security.”¹ After Security Council resolutions went unheeded by the Yugoslav authorities, NATO took a decisive role in brokering the October 1998 ceasefire. When, in late March 1999 NATO announced its decision to launch air strikes, the United Nations Security Council was bypassed by NATO, and became largely irrelevant during the course of the 11-week bombing campaign.

In the context of this dissertation, it is important to point out that the intervention was clearly in contravention of international law, in several respects. First, questions remain as to whether NATO obeyed the laws of war (jus ad bellum) with respect to the use of force as a last resort. Was Rambouillet an honest attempt at “flexible mediation” between the two parties? Richard Falk argues that it was not:

a recourse to force should be clearly presented as the consequence of an energetic, good faith attempt via flexible diplomacy to find a peaceful solution. The failure to make this attempt severely compromises the normative status of the NATO initiative, and does so regardless of the legal rationale selected to justify the action. NATO’s way of proceeding also weakens the argument for bypassing the United Nations and the restrictive constraints of international law.²

The provisions of that accord (including the presence of armed NATO troops on Yugoslav soil) together with the ultimatum presented to the Yugoslav side (i.e. to sign the agreement or face air strikes) suggest that greater effort could have been made to broker agreement between the two parties, and that the launch of air strikes on 24 March 1999 may have been premature.

Second, it is important to recall that the use of force is forbidden by the terms of the UN Charter, except in two circumstances. The threat of force and force itself can only be used in instances of self-defence or in response to threats to international peace and security, under the terms of Chapter VII. In this last instance, force must be authorized by the Security Council. Article 53 of the Charter is emphatic that “no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council...” The Security Council has a

monopoly on decision-making with regard to the use of force. While Security Council Resolutions 1160, 1199 and 1203 did declare the situation in Kosovo as a threat to peace and security in the region, none of these Resolutions authorized the threat or use of force. Despite this lack of authorization, NATO proceeded with the threat and implementation of air strikes, in clear violation of the Charter Articles 2(4), 39 and 53.³

Finally, it has been suggested that the conduct of NATO’s “humanitarian war” was contrary to the laws of war (jus in bello), particularly with regard to the treatment of non-combatants. As Cassese notes,

some states, the UN High Commissioner for Human Rights as well as non-governmental organizations and vast segments of public opinion have strongly condemned, or at least expressed serious reservations about, the manner in which military operations have been conducted by NATO countries. In particular, they have denounced the attacks on civilians or at least the heavy casualties among civilians described as constituting ‘collateral damage’ to the military attacks. In the view of most of those critics, the frequency of such incidental ‘damage’ and its disproportionate nature amounted to serious infringements of international humanitarian law.⁴

NATO’s actions were subject to strong criticism in the face of several widely publicized bombings of non-military targets, such as urban telecommunications towers, major and minor bridges, heating plants, electric power stations, water supplies, and, mistakenly, civilian convoys. Reports published by Amnesty International⁵ and Human Rights Watch⁶, which investigated these bombings, note that according to unconfirmed Yugoslavian figures, some 400-600 civilians were killed. The reports suggest, respectively, that these killings of civilians could constitute violations of the laws of war or violations of humanitarian law.

Some might argue that international law failed the Kosovar Albanians: with no legal provision for humanitarian intervention, unless NATO had taken the action it did,

there would have been far greater suffering, perhaps even a full-scale genocide. The same people would argue because much of international law cannot be effectively enforced by a centralized body, the current system does not constitute either a real legal system, nor an effective basis for international society. It is argued here, however, that international law, while diffuse and without a single enforcement mechanism, is nevertheless a functioning legal system. It is true that international law differs markedly from municipal law insofar as the former is what Peter Malanczuk describes as a horizontal and decentralized legal system, which lacks a supreme authority, lacks the centralization of the use of force, and lacks differentiation between the three basic functions of law-making, law determination, and law enforcement typically entrusted to central organs. This horizontal system of international law is instead “based on principles of reciprocity and consensus rather than on command, obedience and enforcement.”

Central to these principles of reciprocity and consensus is the acknowledgement by states that they are all equally bound and protected by certain fundamental rules in their dealings with one another, and that these rules are the best hope for peaceful international relations in a world of diverse states.

Respect for this decentralized international law is apparent in almost every aspect of conflict and harmony in international relations today. In justifying their own actions, or in criticizing the actions of others, states refer constantly to the norms, rules and laws deemed constitutive of international society. This is not to say that states always act in accordance with those norms, rules and laws, but rather these standards and expectations are always a point of reference in responding to the actions of others. The point is that states acknowledge that they owe others explanations and justifications in terms of common rules they all accept. How vociferous and effective these responses are will depend on the cohesion of international society and the coherence of international law. Law is, in this sense, an authoritative social practice in the contemporary international community. Even though there is no single effective system of enforcement, there is, nevertheless, an authoritative body of customs and treaties to which all states consider

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themselves bound, and certainly there can be repercussions if the law is broken. Various countermeasures can be taken, such as diplomatic (bilateral or multilateral) pressure; raising a claim; third party mediation, conciliation, arbitration, or judicial proceedings; and failing that retorsions (such as cutting off economic aid, trade sanctions) and reprisals (in extreme cases, the proportionate use of force as set out in the UN Charter).

This dissertation suggests that human security is situated directly within a fundamental tension between cosmopolitan justice, understood in universalist terms to include, at a minimum, respect for fundamental human rights; and order, understood in pluralist terms to center around the absence or at least minimization of inter-state conflict, and autonomy for states to pursue their respective notions of “the good life”. In reality, elements of both justice and order are evident in international practice, but do not sit easily together. This uneasiness is displayed most acutely in debates over humanitarian intervention and the use of force outlined above.

Hedley Bull was keenly aware of the lack of compatibility between a society of states based on order and the realization of cosmopolitan or world justice. He recognized that ideas of world or cosmopolitan justice were only realizable in the context of the kind of cosmopolitan society described by Kant and Tesón:

Demands for world justice are therefore demands for the transformation of the system and society of states, and are inherently revolutionary... to pursue the idea of world justice in the context of the system and society of states is to enter into conflict with the devices through which order is at present maintained... The framework of international order is inhospitable also to demands for human justice... International society takes account of the notion of human rights and duties that may be asserted against the state to which particular human beings belong, but it is inhibited from giving effect to them, except selectively and in a distorted way.9

In short, “revolutionary” ideas of world justice become problematic when attempts are made to enforce them against the transgressions of states. Such attempts run against the constitutive norms of international society and international order. Bull acknowledged, however, that it was possible to bring about change with the consent of the parties affected, thereby avoiding any injury to the foundations of international order: through consensus on issues of human justice and enforcement of human rights law, international society would actually be in a stronger position to maintain order. However, a conflict

between order and justice arises "in those cases where there is no consensus as to what justice involves, and when to press the claims of justice is to re-open questions which the compact of co-existence requires to be treated as closed."\(^{10}\)

Human security, however, is seemingly oblivious to the fundamental tensions between order and justice in international society. This is perhaps the inheritance of a Kantian cosmopolitan normative foundation, which maintains the existence of one absolute moral truth and eschews consequentialist reasoning. Indeed, the difficulty with the normative foundation of human security, is that it does not allow for consideration of the kinds of practical and prudential questions which present themselves in the actual practice of international relations. This point is most evident in Tesón’s theory of international law, which is prepared to turn the present reality of international society on its head with little consideration of the consequences. Again, the problems of such an approach would be most acute, and potentially destabilizing, when force is applied to impose this vision. While proponents of human security may not embrace the full gamut of (neo-)Kantian prescriptions for a solidarist world order, the similarities noted above between the respective positions on sovereignty, international law and humanitarian intervention are sufficiently similar to warrant further critical consideration of several key moral, practical and prudential issues.

First, the moral foundations of human security bear further consideration. The relationship between human security and the prevailing international society discloses conflicting ideas about the source of community and morality, and particularly the primacy of the individual or the group in international relations. Human security suggests that there is a single moral truth, which applies at all times and in all places, upon which international relations ought to be based. Such a position conflicts with the value pluralism which presently characterizes the society of states. In a world of communities marked by divergent and sometimes conflicting values, the universalism to which human security aspires may remain elusive.

Further, human security does not acknowledge that the discourse on human rights is problematic and that there two central areas of contention. The first disagreement,

suggested above, is that between moral universalists and moral relativists. The second, and related issue is between individual and collective conceptions of human rights. Acknowledging this debate may require us to consider whether the human rights foundations of human security are liberal and Western in origin, and therefore historically and culturally situated. Are rights universal or are they “best seen as a by-product of a functioning ethical community and not as a phenomenon that can be taken out of this context and promoted as a universal solution to the political ills of an oppressive world”?\textsuperscript{11} The point here is not to take sides in this ongoing debate, but rather to place human security in the context of fundamental disagreements and to point out that the moral acceptability of the doctrine of human security to all states is therefore far from self-evident.

This points to some practical considerations which ought to be taken into account by proponents of human security, particularly regarding the use of force. How far are proponents of human security willing to go to implement the solidarist notion of international association? If the use of force is considered an acceptable means to enforce human security, how will this be done, who decides, and who will do it? Considering the problematic position of the legality of the use of force in the context of humanitarian intervention, is force appropriate to the practice of human security in the present international order?

This dissertation has argued that it is not. In terms of prudential considerations, I conclude that where human security takes the use of force, outside of the bounds of international law, to be an acceptable action in enforcing human rights and humanitarian law, it does so at the risk of undermining the international rule of law described above, a system that has evolved over centuries, through fits and starts, war and peace—from the writings of Grotius and other international law theorists, through the Concert of Europe and the League of Nations, to the universal United Nations that we have today. The Grotian tradition of international society based on the international rule of law has been the most reliable and enduring, though admittedly imperfect, foundation for mutual

toleration and peaceful co-existence in a pluralist international society. The limitation of force is a key characteristic in this society, and to flout this rule threatens international order as it is presently understood. As O'Connell aptly points out:

For law to serve its purpose of bringing predictability, order, and justice to social life, rules must be known with some certainty and must be respected to a certain degree. Indeed, the support of the international community is the essential element making an international rule legally binding. Therefore, rebuilding certainty and community support for the legal regime governing the use of force by regional organizations is important. Failing to do so, and continuing in uncertainty, will deny the international community the benefits of law. That will be a retrograde step, undermining the past century's progress toward building a norm that the right to use force is not unlimited. If we fail to rebuild the limits on force, the failure will come at a time when the international community had just begun to develop new institutions to aid the effective enforcement of these rules, in particular a criminal court to hold individuals responsible for crimes against the peace and violations of human rights.\(^1\)

Human security must take care not to jeopardize the foundations of international society by calling into question the norms of non-use of force, sovereignty, territorial integrity and non-interference. These norms must be universally respected because to adhere to them selectively diminishes the certainty of reciprocity which currently exists. It is a slippery slope which could have potentially disastrous consequences: the deterioration of the universality of the norms of sovereignty, non-interference, and non-use of force, could lead the abuse of power under the guise of humanitarian intervention, pitting North against South, East against West.

Further, the use of force, and the implied corollary of conditional sovereignty, suggests a selective use of international law which is ultimately subversive of the other practices of human security, such as improving and clarifying human rights and humanitarian law and enforcement mechanisms which may evolve. On one hand, human security seeks to strengthen international human rights law through the creation and implementation of various treaties. At the same time, proponents of human security have stated their willingness, in the context of humanitarian intervention, to defy the international rule of law by abrogating laws which prohibit the use of force and protect the territorial integrity of states. The point here is that practically, actions to undermine the legal sovereignty of states will ultimately confound attempts to strengthen humanitarian and human rights law, which remain largely the responsibility of states to

\(^1\) O'Connell, “The UN, NATO, and International Law After Kosovo”, 83.
implement. In short, international law relies on the universal legal sovereignty and competence of the state. To reject these foundations may be to undermine the possibilities for a universally applicable, rule-based order.

Similarly, the use of force in human security may ultimately undermine other strategies for creating agreement and adherence to an international human rights regime. Force, the *ultima ratio* of international relations, generally cuts off civil discourse between states and polarizes the parties to the disagreement:

there is the tension between the possibility of success via the imposition of coercion and the long-term process of regime-building. Attempts to move too rapidly towards the enforcement of international norms or agreements may well undermine the importance of consensus and of self-enforcement on which most international legal regulation continues to be based. Too strong an emphasis on enforcement may both hinder the hardening of existing human rights institutions and make states unwilling even to sign up to loose agreements or sets of principles for fear that they might be used to legitimize coercive intervention.13

In this way, the use of force damages possibilities for an evolving consensus on the importance and implementation of human rights in international relations, and therefore weakens the role of international law in this respect.

Finally, as Robert H. Jackson has argued, a Kantian revolutionary reworking of sovereignty and non-intervention in international relations would effectively reverse universal decolonization and move international society back towards an exclusive paternalist order.14 The difficulty with the universalist doctrine of human security, and the corollary of conditional sovereignty, is that it harks back to a period of European colonial history in which only certain types of communities were considered "civilized" enough to participate in the discourse of international relations. Rules, rights and privileges only applied to civilized (European) states; the rest were characterized as "barbarians."15 This "standard of civilization" required two things:

To be entitled to recognition as a full member of the international community a political unit had to possess a government that (1) was sufficiently stable and institutionalized for it to enter into binding international commitments and (2) was able to guarantee certain basic individual rights, in

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particular life, liberty, and property. A true state, or a true subject of international law, not only had to possess sovereign power over its land and people but had to be a "liberal" state as well.\textsuperscript{16}

At the time, the only states which met these standards were European. The rules and laws of international society were only observed between European states and held not to apply to others. In practice, this meant that intervention into non-European communities was perfectly acceptable, and the historical outcome of this attitude towards intervention was a long and damaging period of European imperialism and colonial domination. In the present reconstituted language of human security and moral superiority of "liberal states", illiberal states would be deemed outcasts or pariah states. We may well wonder what an analogous outcome would look like in modern international relations. Is an exclusive international order conducive to peaceful international co-existence?

These moral, practical and prudential issues present fundamental moral dilemmas in international relations which continue to elude tangible solutions. Does this mean, however, that we should just "leave well enough alone" and stand idly by to watch gross human rights violations and the utter destruction of human dignity? The answer is clearly not. In acknowledging other moral communities and value systems, we need not deny our own (Western?) moral compass. In line with our own values, there is nothing to prevent a continuous dialogue and a selective withholding of the privileges of international society.\textsuperscript{17} The problem occurs when we try to impose these values unilaterally through force.

The international community as a community must agree that such acts offend the values that most states share. Unilateral interventions, even the interventions of regional bodies must remain illegitimate. Human security may have more influence by taking a strategy that respects state sovereignty and the non-use of force, and works instead on consensus-building in international society and international law, so that states and the communities they represent may agree on when it is necessary and appropriate to act together to restore human dignity in cases of genocide and extreme and widespread.

\textsuperscript{16} Forsyth, "The Tradition of International Law", 37.

violations of human dignity. In this respect, the recent establishment of the International Commission on Intervention and State Sovereignty (ICISS) is encouraging.\textsuperscript{18}

In short, human security would gain greater legitimacy and influence by eschewing the use of force as a tool of policy, and instead embracing an approach which consistently respects the international rule of law and the pluralist foundations of international society, while at the same time continuing to engage and pressure recalcitrant states on humanitarian and human rights issues. The emphasis of current international human rights regimes on inquiry and exposure is appropriately linked with more assertive measures, including political and economic pressure. Nevertheless, it is imperative to forge and uphold a "procedural consensus"\textsuperscript{19} a legal framework of rules and institutions which establish a generally accepted means of mediating between conflicting interests and values. Such a strategy may allow movement towards a sustainable and substantive value consensus, a convergence of principles and agreement about how these are to be upheld. In this way, human security must pursue a middle path between a desire for universal human justice, and respect for the practical and prudential requirements of a pluralist international society and international law.

\textsuperscript{18} The purpose of the Commission is to address the complex problem of state sovereignty and international responsibility, to build a broader understanding of the issues and to foster global political consensus on how to move them forward. The Commission, a Canadian initiative, was launched in September of this year. See DFAIT, “Axworthy Launches International Commission on Intervention and State Sovereignty”, News Release No. 233, September 14, 2000.

\textsuperscript{19} Hurrell, “Power, Principles, and Prudence”, 300.
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