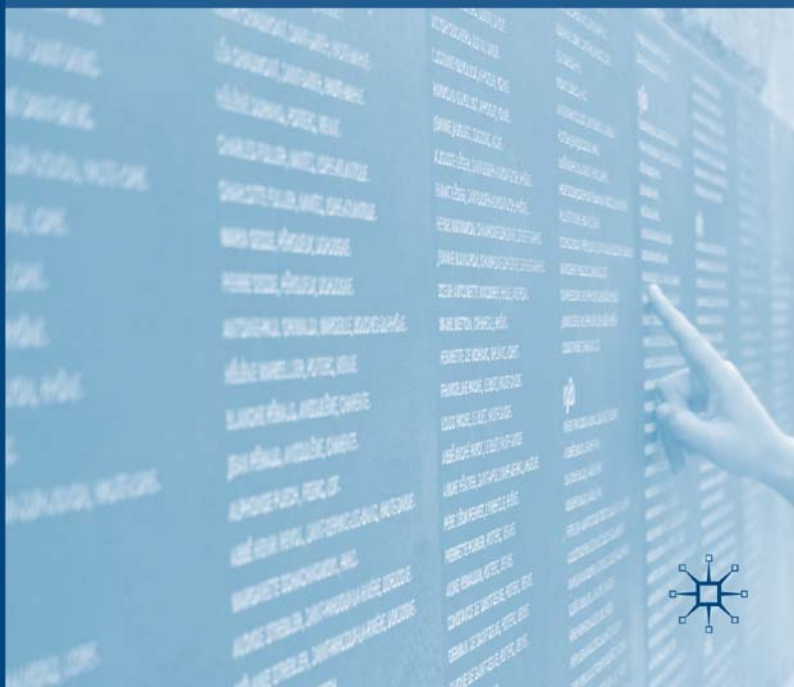


# MORALIZING INTERNATIONAL RELATIONS

Called to Account

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ARIEL COLONOMOS



# Moralizing International Relations

## **The Sciences Po Series in International Relations and Political Economy**

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**Called to Account**

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Translated by Chris Turner

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## INTRODUCTION

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International politics has been seen as an amoral power game based exclusively on force. The Cold War period, when it was better to be wrong with Henry Kissinger than right with Mother Theresa, bears the deep imprint of such a worldview. The fall of the Berlin Wall undermined this blind certainty. It radically transformed the traditional view of the protagonists of international politics and had a profound effect on the analyses of experts in the field. It gave rise to a new way of speaking about the subject and opened up new directions in the way it was practised.

### **Egoism or Moralism?**

One point has to be noted from the outset. There is a parallel between the political and economic balance sheet of a half-century of history and the—moral—balance sheet that goes with transition to the post-bipolar era. “World history is the world’s court of judgement”<sup>1</sup>—this is the romantic slogan of these messianic times. The main centers of power—states, international organizations, and the big multinational firms—were, on this basis, called to order by the guardians of a law whose banner bears the imperative: “account for your actions.” The curiosity that led us to seek out the political and economic causes of the historic break of the 1990s soon combined with an inquisitive eye to the role of each of the parties to this great transformation. Indirectly, the promoters of values came out of this revolution with their positions strengthened.

A number of signs attest here to a new range of demands. First, the transition to the post-Cold War era was accompanied by a succession of repentant voices. Whereas repentance traditionally symbolized the

distress of the defeated at the outcome of a conflict, other political and economic forces were now forced to display it. A number of Western governments and large multinationals, though identified with the winning side, expressed their repentance and, in their wake, drew a host of imitators into the moral chorus.

This mood had in it some of the feverish expectation of the waves of democratization that had hit both the shores of Latin America and the lands of Eastern Europe. It prompted lawyers to assume a new role by standing up to the military men. The spread of democracy strengthened the belief in an international idealism undergirded by the application of rules and procedures.

Such a vision also bears the stamp of a new relation to temporality. The present determines our relation to the past; by a retroactive effect, the way we look at the past guides our own relation to the present. During the 1990s, democracy and the market economy shaped a new way of viewing historical injustices such as the Shoah and slavery. In addition, the place of memory, particularly memory of World War II, influenced the interpretation of the wars of the 1990s, militating in favor of intervention when a mass crime was taking place on the Western world's doorstep. Lastly, this dialogue between past and present that gave rise to a normative view of a, purportedly amoral, international scene set the tone for many ambitious projects, fraught at times with a secular messianism, akin to initiatives in the environmental field.

### **The Aftermath of the Cold War and of 9/11**

Is a break of this kind destined to be a lasting one? Is it not rather an ephemeral parenthesis that in no sense disconfirms the long-term trends of a history deaf to the blandishments of all idealism? This book investigates the deep nature of the normative changes occasioned by the break that occurs in the last decade of the twentieth century and expresses a view on the morality they imply. It also provides some answers regarding how one might assume a position toward another question dictated by fear and a sense of urgency—namely, has the hope for a better world, to which the alleged advances of the 1990s had given birth, been consigned to the dustbins of history by the historic turning point of 9/11?

Formulated in such manichean terms, there is only one answer to this question and it can be stated as follows: the return of violence—on

the part of America's attackers and of America itself in the bellicose riposte it was not slow in making—can be said to attest to a thoroughgoing amorality and to the determination of international politics by the calculation of interests. Thrill-seeking journalists, strategists nostalgic for the big history of battlefields, Marxists on the comeback trail—all these various prophets immediately drummed out the refrain of the iron law of egoism. For these dogmatists of doctrinal certainty, there is no doubt regarding the matter. For the sociologist combating the *doxa*, morality is always a diversion. For the enlightened strategist, it is necessarily a mirage. The explanation in terms of egoism and the pure relation of forces has one virtue: it is intellectually reassuring. At the risk of demonstrating scant boldness, it fits into an established tradition of the critique of a power that conceals its intentions, which are always bent on oppression, no matter what. It is also locked into a reductive, simplistic definition of “interest.” Denouncing the illusions of an angelic morality—and invoking 9/11 as proof—gives these professional exposé-merchants the opportunity to recall the permanence of a primary “reality”: class relations in the age of globalization for the one group, the geopolitics of amoral power relations for the other. Each of these two forces continues, in their view, to be the engine of history.

An array of current events that are both urgent and tragic have revived this threadbare determinism. Unfortunately, this reflex prevents us from grasping the difference between the break that occurred in 1989 and the changes the world has undergone in the aftermath of 9/11. I argue in this book that the 1989 break is of greater significance than the turning point of 9/11. My thinking stresses the coming of a genuine historic turn, the course of which has not been changed by 9/11 and here I point up its lines of force. One finding encourages me to reject the arguments that amorality has returned. Since 9/11, norms and values, together with an ideologically situated morality, have played a substantial role in the definition of American strategic options. The case of Iraq is revealing. The decision to intervene in Iraq was left in suspense for more than two years. The traditional defenders of the national interest were originally hostile to such a decision, contending that the containment of Iraq was sufficient to prevent a weakened regime from doing harm. Irrespective of any other consideration, they contended, this option was the most favorable one to America. George W. Bush had himself built his election campaign around the central platform of American withdrawal from the great international questions and the absolute need to concentrate on “real” American interests without being drawn into

useless and dangerous causes that in no way engaged American hearts and minds. Yet Bush's neoconservative advisers were easily able to overcome such reservations and skilfully played on the new perception of the post-9/11 world. Can they be said to have thumbed their noses at the moralistic tenor of their age? No, when all is said and done, they won acceptance for a normative vision of foreign policy that imposes democracy by force.

### **Justifying Oneself in Times of Globalization**

To gauge the lasting nature of this change, we have to ask three questions. To what extent does the moralization of international affairs bear the stamp of liberalism? Here, we have to distinguish between three levels: economic liberalism and the market, political liberalism and the forms of the liberal state, and the tradition of liberal internationalism and political cooperation in a context of free trade. In the years immediately following the fall of the Berlin Wall, the fresh impetus given to liberalism as an explanatory model, by contrast with the amoral national interest thesis, together with the crushing victory of the various forms of liberalism in discourses and practices, had a decisive normative effect. These liberal resurgences gave rise to a value-based enthusiasm with crucial consequences.

Second, what was the role of new collectives in this process? What were the expectations, values, and structures of the collectives whose emergence was fostered by this liberal dynamic? A coming together around new sources of identification has accompanied the transition to a post-bipolar world. Against states that continue to be attached in some cases to an amoral, instrumental vision, various groups have asserted their rights, foregrounding emotion and exerting pressure. The rise of such groups, as evidenced particularly by the question of historical memory and the financial compensation for war crimes and genocide, is imbricated in a system of very specific representations.

These collectives base their action on a practice of publicity. The notion of *Öffentlichkeit*—publicity or public space—popularized by Habermas in his reworking of Kant in terms of a “transnational civil public space,” merits careful discussion here. The promotion of a critical posture through self-advertising turns out to be one of the pillars of globalization; the blacklisting of accused parties through public stigmatization is one of its most effective vehicles. Our aim is to show that, in a liberal context, publicity is a decisive resource. It is central to the

transformation of emotion into morality by way of the coercive force of law and the economy.

Lastly, how are we to explain the rise of the delicate question of collective responsibility? Is there a collective responsibility? Is such a notion valid? The obligation of accountability has led to the examination of the behavior of collectives: the accused, through the formation of new groups—the complainants. The practical modalities of these protests have to be analyzed both at the legal and economic levels, and we also have to examine their validity on grounds of both coherence and rationality.

To answer these questions, this book is divided into three parts. To what extent do the 1990s represent a break? It is necessary, first and foremost, to identify the specific character of the 1990s as both a historic break in practices and a revolution in perceptions and the concepts underlying those perceptions. The moralization of international relations is the product of a caesura: the end of the Cold War. It is also heir to a dynamic associated with a long period of historical development. Liberalism, Kant and Grotius's law of nations, the anniversaries of which have recently been celebrated amid great pomp and circumstance, existed long before the vision of an amoral, ruthless world took shape.<sup>2</sup> How are we to analyze the revival of these modes of thought and to understand the reasons for their reappearance? The first chapter analyzes a structural change produced by the end of the Cold War. That change was the main precondition for the emergence of the obligation to justify past and present acts. The following chapter takes stock, in this context, of the difficulties an amoral view of international politics has to cope with and consequently explains the reasons why it has been thrown over. It analyzes the historical tensions leading to the erosion of this model and the interplay within the field of knowledge that accompanied its death throes.

What is the content of the social fabric constitutive of this transformation? Part two presents the most significant moral dilemmas and challenges raised by this turn. The study of four main questions brings out the substance of the obligation of justification. These examples cast light on the levels and fields in which that obligation is anchored. For example, a growing number of multinationals accept the idea that they have to be accountable for their actions on grounds of morality. There is also a massive debate around the idea of punishment through economic sanctions, and justification is at the heart of this question. The need to make reparation and restitution for war crimes and genocide is an idea that has also gained ground over the last decade. Lastly, when

Westerners go to war, their practices are subject to evaluation on the basis of the number of deaths they cause. These four fields each have their own specific features and also overlap. In this way, they form a “web of meaning.”<sup>3</sup>

These issues emerged and developed in the last decade of the twentieth century. We must note that, in each of these fields and for each of their protagonists, the obligation of justification is an exigency that continues to pertain in the post-9/11 world. For example, a number of multinationals—including the French oil company Total, which was traditionally resistant to high moral appeals—are beginning to become aware of the problems that legal actions and moral criticism could pose for them. Similarly, there has, since 9/11, been renewed consideration of financial sanctions as a means of forcing “pariah states,” such as Syria or Sudan, to toe the line. Moreover, demands for reparations made by representatives of African Americans are debated in American courtrooms, while new victims are queuing up at their doors. Finally, during the last two wars against Afghanistan and Iraq, the Western troops engaged in these conflicts have sought to preserve their soldiers from death, while at the same time attempting to avoid civilian losses in the enemy camp. The enduring nature of these great questions attests to the force of the demand that they justify their actions.

What heritage has this transformation left us? What stance should we take toward issues that are becoming established as enduring ones? The analysis of the fundamental character of this historic turn cannot be confined to a mere explanation of its causes. The central characteristic of justification must be debated and in part three we engage in specifically normative thinking on this theme. What is the validity of norms that have as their aim, in this form, to decree what is just? Can a satisfactory morality be built on the language of Kant, on the reinvention of liberalism and utilitarianism, and on the application of justice as a way of asserting good?

There is a dialectical movement between these three phases that draws on the interplay between facts and values and between materiality and the world of ideas. The starting point of this book is an analysis of the world as stage or scene, in a historical context—the 1990s—in which morality was central. It continues with a study of international indictment, detailing the practices of a—sometimes improvised—*in vivo* negative ethics, which is based on the denunciation of wrongdoing. It ends with a discussion of the language and underlying fabric presupposed by these admonitions, with the aim of identifying the possible terms of a more distanced pragmatic ethics.

By opting to show the incidence of values on the formation of interests, this book puts ideas at the center of political explanation. It analyzes the social construction of the international reality that came out of the shift in beliefs linked to the fall of the Berlin Wall by presenting the forces that undermined belief in the primacy of amorality.<sup>4</sup> It casts light on the normative content of that transformation and its focus on the obligation of justification, and discusses its consequences. Within this conceptual framework, our approach entails an analysis of moral norms as such. Constructivism offers an alternative to a purely descriptive sociological analysis and provides scope for a normative evaluation.<sup>5</sup> The explanation of the emergence of an idea and the interpretation of a decision provide information on the meaning of the morality they convey, and a discussion of the theories of the just and the good facilitates the understanding of political choices.<sup>6</sup>

The fall of the Berlin Wall is a historical rupture bodied forth in the demand that obliges politicians to justify their acts. It is neither the end of history proclaimed by the apostles of a world of entrancement, nor the end of politics marking the onset of chaos. On the contrary, the 1990s were the crucible of a world of possibilities. These years posed some long-occulted questions, the answers to which brought to the fore a responsibility toward the world.



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PART 1

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*A Moral Break?*

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## CHAPTER ONE

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### *The 1990s*

#### **From Friend to Partner and from Enemy to Pariah**

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During the Cold War years, Western leaders developed and exploited a myth solidly rooted in the popular mind that contributed to putting states in sole command of the world. In that mythic tale, states were presented as “cold monsters” and their thoroughgoing amorality reflected the interaction between nations, in which they had undisputed priority.<sup>1</sup> Having charge of planning, decision-making, and action, they knew what the “well-meaning” did not: namely, that success went to those who set aside such prescriptive considerations as law and morality and, *a fortiori*, emotions and feelings. Henry Kissinger is, on these grounds, the most fitting representative of the period. He himself never concealed his admiration for his model, Cardinal Richelieu, who gained renown during the Thirty Years War by supporting the Protestant princes of the new German states to counter a Habsburg Empire that owed allegiance to Rome.<sup>2</sup> The cardinal lent the Reformation political support abroad and, by so doing, increased the power of the French kingdom. In such a scenario, values are banished from both the analysis and the legitimate practice of international relations. The state is beyond sentiment.<sup>3</sup>

However, from the 1970s onward, many voices were raised to point out that images—and, consequently, a subjective dimension in the relation to others—had a directive effect on power relations.<sup>4</sup> Despite such cautionary voices, the fixed cold monsters worldview prevailed during the bipolar age. In accordance with the ancient conception of the *theatrum mundi*, the world was seen as a theater, though one in which

the leading characters were voiceless.<sup>5</sup> The spectacle provided by that theater was a mute tragedy in which two protagonists fought it out with only missiles and divisions for dramatic resources. There was no place there for “prophets disarmed,” as the Machiavellian phrase has it.<sup>6</sup>

Bipolarity is Schmittian theory in action. The confrontation between the two blocs mirrors the irreconcilable division between friend and foe.<sup>7</sup> Each of the two, the American and the Soviet, demanded that other states choose their camp or risk being viewed as an enemy. For more than half a century, a division based on a static world order governed international relations. In this “Desert of the Tartars,” the two empires observed each other from behind the ramparts of their respective fortresses.

The victory of the United States in its confrontation with the Soviet Union radically transformed this pattern of global organization. Inevitably, it also affected the detailed ways in which power was exercised. The unipolar situation that quickly emerged during the 1990s arose out of a liberal vision in which America saw itself as exerting attraction to bring new states within its orbit. America made its imperial aspirations clear: the states and societies that would join with it would have to accept allegiance to its worldview. Identification with the American model, by virtue of its attractiveness, must orient their interests. For the societies that had previously been under the Communist yoke, the conversion to capitalism was rapid and harsh. Where other countries were concerned, this unipolar situation gave rise to much reticence. Consequently, a division was established that is clearly distinct from the Schmittian divide of the previous decades. Within the context of liberal unipolarity, a group of partners united by the common denominator of the rule of market democracy stand against a mixed grouping of societies and states whose members have opted for other rules. The liberal order presents itself as an example of success and the defense of globalism stands opposed to a range of particularisms. In the world of partners, the rebels are seen as “pariahs,” in much the same way as, from the 1990s onward, certain countries are dubbed “rogue states.” The friend/enemy dichotomy has given way once and for all to a division between partners and pariahs.

### **New Protagonists**

This world is distinguished from the old by the new initiatives within it. Within liberal unipolarity there is, in fact, a great diversity of levels.

This is the second refutation of the model based exclusively on a play of amoral power in relations between states. The state is no longer the sole protagonist in international relations: it has to reckon with a great diversity of levels of action. The category of "non-state actors" now appears in the global vocabulary and reflects quite well a very specific division and distribution of power.<sup>8</sup> This enormous grouping includes NGOs, international trade union organizations, and churches on the one hand, and terrorist movements, guerillas, and drug traffickers on the other. The preferred form of action of these groups is networking. Both practitioners and theorists have to come to terms with the fact that these non-state agents run counter to the verticality, the rigidity, and sometimes the inertia of traditional diplomacy of the kind that originated with Bismarck.

Within this enormous category, one type of organization and network plays a crucial role in a world now divided between partners and pariahs. "Norms entrepreneurs" and, more specifically, "moral entrepreneurs" are at the heart of this dual system.<sup>9</sup> Advisers and experts, judges and lawyers, consultants and social movements, economists and historians, humanitarians and religious actors are, in many respects, the cementing force within the "partner world." Their activities converge in the pursuit of a unifying universalism, whose function is to strengthen social bonds between the elements of a radically heterogeneous international system. Such an environment has identified effectiveness as its aim; it attempts to suggest, or, indeed, in the last instance to impose, rules aimed at giving a coherence to the world that surrounds it.

These "good shepherds" have managed to spin the web of a universe that lays down the rules of justice and preaches good; they have also thereby created the boundary beyond which injustice might be said to prevail. By praising the model pupils of the partner world, they play a central role, by default, in stigmatizing pariahs and, at times, by drawing attention to the misdeeds of these rebels, consciously lead to their being blacklisted.<sup>10</sup> Moreover, norms entrepreneurs turn the world into a theater in which a number of the actors' roles are interchangeable. These creators of justice and morality are able to facilitate the promotion of states that were previously pariahs, which then leave their formerly degrading condition behind. On the other hand, they can also decide to dethrone certain partners, who are then forced to relinquish the advantages of their previous status.<sup>11</sup> This power of appraisal gives them an even more central position.

### Moral Demands

Such a structure reflects a geopolitics: it establishes other protagonists and creates new confrontations. The 1990s released initiatives that had until then been muzzled by the forces surrounding them or, conversely, discouraged by the indifference they encountered. In the encounter between a social demand and institutions tasked with responding to it, there emerged a space for dialogue. That dialogue took its place at the heart of a space of judgment, which assumed the appearance of a tribunal in a metaphorical, and sometimes literal, sense. From the noisy demonstrations of the nongovernmental organizations, to the muffled corridors of the International Criminal Court, a tortuously assembled project has taken shape.

In general opinion and also in certain founding texts, ethics arise out of a conviction that is individual rather than collective. It is, therefore, identified with a register of sincerity and authenticity. In social interaction and at the collective level, morality is the product of the confrontation between various groups expressing the more or less sincere emotions of their members. The morality of relations between groups is regarded as different from individual ethics. Ethics attest to the particularity of an autonomous choice; morality can be seen as heir to an obligation and a tradition. The difference between these two terms is, in many respects, a matter of nominalist quarrels, and of the positions and aims of the authors who use them.<sup>12</sup> For our part, we have sought to stress an international dimension of morality that concerns relations between collectives. We have to admit that the rules proclaimed during the 1990s establish a consequentialist morality that is the product of both national and international transformations. The explanatory and normative analysis of that morality lies at the heart of this work.

In the partner world that includes Western societies—and, to some extent, their interlocutors in Latin America and some parts of Africa and Asia—the requirement to justify past and present behavior has become internationalized. This obligation initially spread as a consequence of structural conditions. During the Cold War, it was a presupposition in power games between friends—between members of the same bloc—that a government would turn a blind eye to the misdeeds of an ally on account of the shared interests that united the two states against their enemy. This great tolerance—or rather *omertà*—was the product of a fear that discord between friends might prompt the other bloc to take advantage of a possible disagreement. At the national level, governments also took measures to silence dissident voices within their

own states. It was definitely not the done thing to call friendly powers to account for their actions. It would, in fact, have been unthinkable during the Cold War years for the Americans to ask the Swiss banks and the Swiss state to come clean about their activities during World War II. Within the post-bipolar partner world, on the other hand, the rise of civil society and, in particular, the recognition of such societies as protagonists on the international scene have encouraged criticism of states and institutions, which are now required to explain their conduct to these new critics. Having thus found an audience, these same civil societies envisioned the globalization of their protest, and in this theatricalization of international affairs, moral entrepreneurs came into their own.

Jean-Michel Chaumont was among the first to identify one of the effects of this liberal pluralism when he investigated the “victim demands” made by community representatives who became spokespersons for their constituents’ suffering. This phenomenon, provocatively dubbed “victim competition,”<sup>13</sup> in many ways characterizes the relations between communities and their dialogue with the state. The post-bipolar international scene has substantially consolidated this process. A long list of recriminations have been brought before the tribunal of opinion and an increasing number of victims have turned to potential righters of wrongs to obtain compensation or bring pressure to advance their causes abroad. In the United States a number of communities have highlighted their particular suffering, arraigning America before the tribunal of morality and law. They have also been able to internationalize their demands by instituting proceedings against other states from a distance—from the United States and Europe in the case of those South American Indians who have sought to gain recognition for their land rights. Following the example of black Americans in the fight against apartheid in South Africa, other communities have influenced the orientation of American foreign policy. The role of Jews, and more recently of Palestinians, with respect to the Middle East, or of Latinos in the United States’ relations with Mexico are evidence of this.<sup>14</sup> Never has the 1968 slogan “We are all German Jews” so aptly described the political context of Western societies.

There is a corollary to this global identification with the figure of the victim. Ultimately, if we are all German Jews, we will all have to accept the role of “Germans” too. The increasing obligation to justify one’s behavior has an effect: a growing number of institutions are forced to shoulder the role of penitent, and this at times even includes collective bodies that have themselves raised moral demands



or have associated themselves with victims. A group, community, nation, or state often has to assume this dual role. The France of World War II is a classic example: depending on one's version of history, it is either an occupied, ravaged land or a nation of "collaborators." More recently, reemergent memories of the Algerian War have also cast a cloud over French history and played their part, in a scandal-hungry world, in reinforcing that country's reputation as an oppressor nation. The case of the countries of Eastern Europe brings out this situation of dual—just and unjust—identities most clearly. When the Berlin Wall came down, these societies presented themselves as the victims of Communism; yet they had, at the same time, to account for the oppressive policies implemented by their former leaders.

We have opted to examine the moral scope of these demands, even when they are the product of relations of force. We have not sought to discredit them a priori on the grounds of their association with material interests or their economic dimension. On the contrary, it is a normative structure and an imaginary representation of the economy that have given rise to moral demands here; these demands have to be debated on their own terms, though this does not mean some aspects of them are not to be criticized.

Some commentators inveigh against such moral demands on the grounds that they are thoroughly negative and opportunistic, and give expression to the basest of sentiments. However, this critique does not always match up to its own supposed standards of virtue: in many cases it largely reflects the resentment felt by the sermonizers. "Victim competition," nonetheless, clearly harbors an aggressive component that is not to be underestimated: a division of the world is created in which plaintiffs confront defendants, formally demanding that the latter respond to their requests. In such a context, passions have an intrinsic link to interests. At the symbolic level, these confrontations between the victims and the accused often involve great violence.

When faced with such recriminations, traditional diplomacy is, to say the least, ill at ease. This is the first time private groups have called so vigorously on representatives of an established institutional order to justify their behavior. At the international level, the "private" is rising up against the "public" and employing the weapon of moral accusation. Some states suffer from this new distribution of power and this imperiling of governmental reputation more than others. The states of continental Europe have been more hard-hit by this new disposition than America.

### An American Hegemony

The United States has been at the heart of the globalization of the demand for justification from the beginning, and it has been so on two counts. On the one hand, the American state has a long history behind it in the field of morality. In keeping with its own Puritan past, America has been eager to assume the role of “beacon of hope for humanity,” as John Foster Dulles put it in the 1960s. On the other hand, elements in the civil society of that country have more recently played a very prominent role in the rise of a newly idealistic vision. Religious and humanitarian groups, together with social movements, have grasped the importance of this moment, being joined here also by legal entrepreneurs. In each case, these initiatives have been surprising both in their scale and systematic character. However, they are not radically novel, forming part of a history that goes back at least a hundred years.

Several historians of American foreign policy have, in their analyses, regarded the moral and moralizing trajectories of the United States as part of the continuity of its hegemony. One of them, Tony Smith, has gone so far as to argue that Wilsonianism, the moral conception of a policy oriented toward world democratization, is the thread running through American history in the twentieth century.<sup>15</sup> According to Smith, this tradition was never abandoned by Wilson’s successors. He also points out that Ronald Reagan, for all that he was a conservative and Wilson a Democrat, and for all that he greatly favored a policy of intransigence toward the Soviet Union, most fully exemplifies this tradition in modern times. More recently, the example of George W. Bush provides confirmation of the thesis.<sup>16</sup> Clearly, Wilsonianism, as the model of an internationalism based on democracy and liberalism, affords a great margin of maneuver for American leaders who wish to take their place in this history. By reason of its rootedness in Puritanism, Wilsonianism also strikes a strong chord in American society.<sup>17</sup>

During the Clinton presidency, America’s leaders took on a role very directly inspired by Wilsonian morality. The theme of the “benevolent hegemon” soon became a slogan that chimed with the hopes invested in globalization, in the development of communications technologies, and in the signing of peace accords in the Middle East.<sup>18</sup> America made its ambitions clear: to unite the forces of the “free world.” Its leaders took advantage of the unipolar situation in which the world found itself to organize that world along lines consonant with their values and with a set of rules that could not be incompatible with the procedures

characterizing Western societies.<sup>19</sup> The United States sought, particularly, to secure consent from the partners with whom they dealt.<sup>20</sup> This posture has been one of the main wellsprings of American power and by virtue of this mechanism, America now more than ever occupies a central place in world affairs.

The second aspect of American force is embodied in the many private initiatives that have Puritan liberalism as their breeding ground. These form part of the reinvention of certain traditions, and, particularly, of the extension of philanthropic movements that emerged in the nineteenth century within the great Protestant churches and the foundations created by the captains of industry. More precisely, various studies have analyzed the rise of the humanitarian movement from the end of the nineteenth century to our own day, stressing the exponential increase in nongovernmental organizations over the last decade of the twentieth century.<sup>21</sup> Many of these groups have their origins in the United States or use American society as a way-station for the mobilization of their troops and the dissemination of their message. A cult of exemplarity, especially favorable fiscal conditions, the importance accorded to the right of free speech, and a litigious legal culture—not to mention the wealth of potential donors—all make American society a place where such initiatives are focused.

By its pluralistic character, American political liberalism has given a home to many communal groups and diasporas, and these latter also contribute to making American society one of the major centers of the determining of what is just, and one of the main foci of moral protest. The diasporas are now recognized as members of the international system,<sup>22</sup> and as such, they are inevitably vectors of values. Their dialogue with the American state, together with their links to their societies of origin, help to bring many decisions into the forum of public debate.

American society has also fostered the development of specialist consultative organizations in fields such as democracy and justice. Here, one example among the champions of democratic justice is particularly indicative of a trend toward the professionalization of such expertise. Recently, within this vast movement of the exportation of law and morality, organizations such as the International Center for Transitional Justice have appeared. This came into being as a result of the process of democratization in South Africa and in the wake of the experience of its founder Alex Boraine on that country's Truth and Reconciliation Commission. This twofold—liberal and Protestant—dimension (the Truth and Reconciliation Commission was headed by

the Anglican archbishop Desmond Tutu and Alex Boraine is both a lawyer and a Methodist minister) chimes very well with the rules of American society. The group, whose headquarters are not far from Wall Street in New York, rapidly acquired a sizeable reputation for providing advice to governments and has considerably diversified its activities into fields such as reparations claims and the assessment of genocides.<sup>23</sup>

Throughout the twentieth century, these two state and societal aspects developed in parallel while mutually reinforcing and enriching each other; their rise was also accompanied by a greater symbiosis between state and society, which merely widened the impact of their message. The melding of a triumphant state moralism with an efficient private one is the mark of this American decade. There are, thus, two Wilsonianisms: on the one hand, a Wilsonian stance in foreign policy and, on the other, its counterpart in the messianic attitude some groups in American society have chosen to adopt toward international affairs. Wilsonianism emerged out of puritanical Protestantism at a point when America was rising to world-power status. By a retroactive effect, after the fashion of the Protestant and Evangelical churches in the exportation of their messages, some elements of American civil society are developing a non-state Wilsonianism, an example being lawyers advocating human rights and Puritan ethics. This emergent doctrine is thus laying the basis for a genuine theologico-political dynamic: this interplay between state and society through the medium of political and religious culture is one of the features of the message America now addresses to the world. Now, this practice and this conception occupy a central place in the dissemination of the requirement for justification. By their global extension, this discourse and praxis have wide-ranging consequences. Ultimately, America is consolidating its status as a superpower by playing on its role as world center of the production of potentially universalizable norms.<sup>24</sup>

### **Will the World Turn Protestant?**

Post-bipolar neo-idealism is, in many ways, heir to Protestantism. This renewed tradition is the reinvention of two trajectories, the one old and European, the other more recent and American. Where international relations are concerned, a liberal idealism is embodied in a tradition of international law that arose in the seventeenth century in the work of Gentili and, subsequently, in that of Grotius.<sup>25</sup> These two philosophers

share many points in common. First, they were both Protestants and lived in the same period. Because of the religious persecution they experienced in their countries of origin, one in Italy and the other in the Netherlands, each went into exile. Gentili became Regius Professor of Law at Oxford, while Grotius had a substantial influence on international public law and his texts were central elements in the canon taught in that university. In the name of a Protestant-inspired law complementing the “just war” theology of Saint Augustine and Saint Thomas Aquinas, the two legal philosophers laid down certain rules that attracted renewed interest in the late-twentieth-century world, particularly where the conduct of armies in times of war is concerned. These rules embodied the principle that the international system would be more stable if it were more subject to norms. The law produced here emerges from a Protestant matrix in search of a pragmatic humanism.

Through the revival of the law of nations, contemporary idealism takes its lead from this enlightened Protestantism. At the same time, it combines with this tradition a Wilsonian puritanism in full cry. Wilson’s messianic tone has, in fact, a deep religious tenor. As such, it echoes a “civil religion” solidly anchored in American society, which is being extended into the international realm.<sup>26</sup>

The history of Protestantism provides an exemplary illustration of the demand for justification. The obligation to give an account of one’s actions, particularly in response to the denunciation of the sale of indulgences, occupied a very prominent place in the pattern of the Reformation. That tradition and the same kind of stance toward the Catholic Church are found today in Latin America where many evangelical churches with origins in the American Protestant matrix accuse South American states of corruption, explicitly criticizing their Catholic inspiration. In the texts of the Calvinist tradition, as Max Weber showed, a culture of efficiency and industriousness was developed.<sup>27</sup> Within such a framework, man must justify his predestination. His work is the proof of his excellence. The aim of that demonstration is to distinguish him from others. Consequently, it can transform itself indirectly into a demand for others to justify their behavior, gauged by the yardstick of one’s own exemplary conduct.

Protestantism is clearly not the only tradition within the Judaeo-Christian family of religions to pride itself on such a demand for virtue. We must acknowledge that this *credo* also has a profound resonance in the Catholic world. Certain passages in the gospels are expressly devoted to a morality of judgment and stewardship. “To give an account” is a specifically Christian expression, often used in a

Catholic country such as Italy to admonish its politicians. The words "give an account" (*redde rationem*) figure in the passage in the Gospels that relates to the steward who is called upon to explain his activities.<sup>28</sup> This theme also lies at the heart of the parable of the prodigal son with his "riotous living." We must, however, note that in this latter case the son was subsequently forgiven by his father. The forgiveness is unconditional and precedes a potential disclosure of his sins. In the story of the unjust steward, the steward has deceived his master with guile. He has acted cunningly in this world, but the next world takes precedence over misdeeds committed in this one. The unjust steward does not have to own up to his misdeeds. There is no question of judgment or sanction in this world.

Lastly, the question of repentance and the ethics of money occupy a substantial place in Judaism, particularly in the many positive and negative obligations that characterize that religion. Repentance, in the form of *teshuva*, is a part of Judaism. A Jewish ethics of law and stewardship also puts the accent on the need for transparency and indicates the different forms of arbitration reserved for the compensation of a list of injuries. It furnishes precise instructions on the relationship that is to pertain between judge and criminal. Each must justify his acts by providing material evidence. The criminal, when judged, must disclose the nature of his crimes. The judge must not judge the accused unjustly. These considerations form part of a tradition that lays down the law in its relation to materiality, thus having a considerable echo in democratic, capitalist societies.

### The Globalization of Ideas

Moral ideas spread outward horizontally and vertically from the American hub. First, on the horizontal plane, a pathway for the dissemination of ideas through markets has come into being. During the 1990s, the intensification of commercial and financial interdependence made Western liberal societies even more permeable to the principles that went hand in hand with the development of capitalism. Traditionally, trade carries with it rules favorable to the extension of *laissez-faire* and competition. The agents of capitalism bring with them their own conception of what is just, and the exchange of goods and services has its influence on the circulation of ideas. By way of example, it is important to note that in the field of multinational trade, French firms have for some years now been led to import from the United States a number

of codes relating to company governance and societal responsibility, precisely on account of globalization and their own ties with America.

This expansion of capitalism's norms also affects sectors other than the strictly economic. The networking of societies chimes with neoliberal ideology, which has swept through Western societies as a whole.<sup>29</sup> Networking is more than just a discourse; it corresponds to a dynamic and practices that influence a whole range of occupational sectors well beyond management circles. In the genesis of morality, the religious<sup>30</sup> and humanitarian<sup>31</sup> spheres, the field of law,<sup>32</sup> and the University,<sup>33</sup> to name but these few, all model themselves on patterns directly taken from economics. Their practices assume competition, praise performance, and include globalization as part of their designs. Their moral entrepreneurs export their activities: for them, "the world is a market."

This drive and its repercussions form the true social weft of globalization. The essence of globalization is characterized by movement, when, by association, an idea is able to transfer from one area of social life to another, while shifting from one country to another. The very ideas of democracy and the market would not, in fact, have any significance without their extensions into spheres other than the electoral system, industrial production, or the financial markets. Democracy and the market are validated and reinforced by the principles and praxis that prepare, accompany, and follow their advances. A "web of meaning" is created, even though it is barely possible to separate out ideas that move, as it were, "in bunches." The obligation of justification—the focal point of these new norms—has undergone this same fate.

This universe of meanings and practices renders obsolete the view that these "good shepherds" of idealism and their acolytes are mere dreamers with no real effect on worldly affairs. Within Western nations, moral expertise has taken the same course as the professionalization of various social spaces. Its protagonists have discovered that not only is the world a market, but norms also constitute a major element of power and obey a market dynamic. This being the case, in order mutually to reinforce their positions, these experts have formed themselves into networks within their own fields of competence. At the same time, they have also taken another decision and formed cooperative attachments beyond their own sphere of competence. For example, lawyers and historians in the case of legal action on historical injustices or economists and humanitarians in the field of international political economy propose joint actions, their main aim being to define new codes. The success of such an undertaking enables them to steal a march on their competitors.

For their advocates, these initiatives create an opportunity to take advantage of the proper definition of what is just. Networks of expertise gain in visibility by asserting themselves against institutions. The challenge they address to institutional rules assures them of visibility. This opens the door to a successful future in a world where self-publicity has the effect of enhancing the challenger's power and increasing his/her chances of success. As in tournaments of old, new entrants make themselves known by issuing a challenge. This publicity presupposes the confrontation with the established order of justice and the requirement that the critic justify his position.

These mechanisms—the interdependence of markets, the networking of societies, and the professionalization of norms entrepreneurs—are not of themselves able to constrain those who are called on to justify themselves. In this connection, we have had to examine another aspect of the dissemination of ideas: the vertical dimension specific to the “increasingly widespread nature” of the demand for justification.<sup>34</sup> Communication between public spaces is crucial to the progress of justification. In a world where international politics reacts by “cascades,” this extension of publicity makes its ascent in three stages.<sup>35</sup>

First, a scandal appears in a Western society as a result of the great ease with which denunciation operates, particularly within American society. The basic difference in this area between the United States and states such as France relates to their respective regulations in this field and the differences between their cultures of juridical criticism. Whereas in the United States it is easy to violently denounce the behavior of an organization, enterprise, or state, much stricter defamation rules govern this kind of verbal attack in France.

Once they have overcome this obstacle, critics, if they are to be heard, have to appeal to an emotional register capable of producing shame within the targeted group, organization, or state. The greater the institutional stature of the body accused, the more the accusers are likely to come out of this with their reputations enhanced. For example, where calls for reparation and restitution linked to the deportation of Jews in World War II are concerned, it is, paradoxically, easier to get compensation by leveling an accusation at a huge consortium of Swiss or French banks—and through them at their state—than to overcome the resistance of certain owners of ill-gotten paintings.

In a second phase, the mechanisms of law and economics contribute to lending serious weight to these demands. The moral accusation that first mobilized scandal now transforms itself into a coercive formal charge. With interests aiding, the levers of the economy and the law



contribute to creating a vertical space of indictment. Such publicity makes the formal accusation even more visible. As a result of globalization, that publicity enables it to travel easily. To come back to Kant's two-pronged formulation, the tribunal in the metaphorical sense—the internal law of the tribunal of conscience that each of us should have within us—is transformed into a tribunal of an external juridical law. The latter is the armed wing of the former.

Finally, in the last phase of this process, irrespective of whether the institutions succumb or resist, the activists announce a series of reforms they now wish to see implemented. These reforms are proclaimed in the form of rules: institutions may decide to ignore them, subscribe to them partially, or incorporate them with a degree of conviction.

This publicity, combined with the lauding of transparency, has the function of breaking with the rule of *raison d'état* and the belief in its effectiveness. "Reason of state" implies a vertical dynamic that entails the imposition from above of norms and rules that are to command obedience from below—an obedience that silences any demand for a supposedly infallible authority to justify itself. This principle, which has governed the Western model of the state, and found particular embodiment in its modern form in France and Prussia (examples of the "strong" state), here, comes under severe challenge.<sup>36</sup> The obligation to "give an account of itself" is being imposed ever more significantly from below—with society increasingly questioning the principle that, up until now, has alone governed the regime of the state. The success of this enterprise is evidence that the dynamic of state sovereignty is losing its momentum.<sup>37</sup>

However, state politics has not been short of material resources. The European states, for example, have strong economies capable of competing with the other great centers of the globalized economy. More generally, the military capacities of states are not in question either. This anything-but-silent revolution is based on an inventiveness that contrasts sharply with the relative inertia of the traditional modes of exercise of authority. States have run out of ideas. They have had to give up on many of their initiatives. Some have been on the receiving end of this transformation; others, such as the American state, have gone along with it. Furthermore, this change brings into question normative foundations essential to the traditional view of a state that cannot be said to have entirely incorporated political liberalism and yet, at the same time, has allowed economic liberalism to spread within its society. This transformation arises out of a dynamic directly attuned to the historical genesis of liberalism and its recent forms of globalization.

### The Repeal of State Infallibility

The break with the past occasioned by the critique of traditional forms of authority is part of a wide-ranging movement affecting all aspects of Western societies. From the role of father to that of Church and state, vertical authority figures and the ancient principles of that authority have been severely undermined. International relations are also characterized by a similar phenomenon.

Here, the break comes about as part of the process Michel Foucault referred to as the “internal critique of governmental reason.”<sup>38</sup> Foucault created this concept to account for the effects of liberal political economy on governmental practices and he traces the genealogy of the critique. It emerges in the late eighteenth century with the development of Anglo-Saxon capitalism and utilitarianism. The ruler had to face severe criticism in the form of a cataloguing of his errors, as revealed by the effects of his policy. In the late eighteenth century, political economy had taken over this role of scrutinizing the operation of the state. Foucault’s concept is at its most illuminating when applied to the latter part of the last century. Our aim here is to identify the contemporary terms of this historical nexus, which is reinforced as a result of globalization, and to offer an interpretation in the international field. Connecting with this long history, the contemporary critique of governmental reason takes a moral path: through the international dimension imparted to it, the new utilitarianism of the late twentieth century fuels a liberal critique by lending it unprecedented scope.

Such a genealogy of liberalism is essential to explain the relations between economics and politics that have resulted in the invention of new moral codes and principles. The break of the 1990s has led to a tremendous revival of the process identified by Foucault: the relations between economics and politics have intensified, and each of these spheres is increasingly open to influence from the other.

This dynamic reveals the specificity of our modernity. By its extension and accentuation, the process has given rise to a homology between state and economy. This being the case, states, like economic enterprises, are now increasingly subject to reputation effects.<sup>39</sup> Liberal political economy has a major effect on the definition of state policy. If one fails to take into account the history of liberalism and the influence liberalism continues to exert on the various forms of the Western state, such an outcome is barely comprehensible. On the other hand, when taken generally and viewed in terms of its history, the phenomenon has a rationality all its own. In the 1990s, the critique of governmental

reason took the form of an examination of state-related institutions by testing their efficiency. Based on an approach focusing essentially on analysis of the consequences of the decisions of the institution, past or present, activists were able to formulate a convincing critique, by making use, first, of scandal, then by carrying on their protest by way of such coercive mechanisms as law and economics, and lastly by announcing new rules. The confrontation between the world of non-state actors and the world of states had a decisive effect. The traditional logic of sovereignty, which lays down the rules of equilibrium in terms of geopolitics alone, yielded ground to a principle of performance and efficiency, these criteria deriving from an area of expertise that extends beyond the narrow confines of geostrategy.<sup>40</sup>

International relations, which were long confined solely to the public domain, have freed themselves from the sphere of public international law, just as they have also cast off the primacy of national interest. The practices that have followed the fall of the Berlin Wall are evidence of a phenomenon crucial to the development of a morality: the privatization of international relations has had the effect of making new moral issues public. The operation of liberal principles has meant that this dynamic now rests on a consequentialism based on a redescription of misdeeds in the culpabilizing language of efficiency.

This critique has one major trump card, which largely explains its success: it is based on criteria that are doubly legitimate. These criteria have been adopted by the movements critical of the institutions of the world of states. Moreover, such criteria belong fully to the semantic universe of the liberal institutions—the democratic states, multilateral organizations, and big companies—that stand accused by them.

There is a consensus around the idea of justification in the name of efficiency of action, which derives largely from a revived utilitarianism. It is a sign of the times that a series of ethical codes applied to business, the economy and also to the environment has defined the weft of a commonsense utilitarianism that has found a wide, appreciative audience. Utilitarian arguments and the principle of efficiency that goes with them have thus become the pillars of the critical apparatus targeted at the international institutions. The obligation to justify one's acts in terms of their consequences is based on the assessment of the utility of a decision as measured by the well-being of the claimants and their communities. It also takes account of a general interest, the bounds of which are most often imprecise.

**Responsible on Grounds of  
What Ought to Have Been**

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The indictment of institutions in this way is based on a logical demonstration in terms of utility and on a religious culture that calls for repentance and the compensation of injustice. The assessment of both these factors presupposes an operation of reality-(re)construction: the “reality that should preferably have happened” serves as a yardstick by which to measure the extent of the misdeeds observed in “the reality that actually did happen.” Repentance implicitly incorporates this mechanical operation of the reevaluation of the past. No one has put this better than Oscar Wilde, for whom repentance is “the means by which one alters one’s past.”<sup>41</sup> The virtual history that is properly called “counterfactuality” has become a key component of this machinery.

Counterfactuality corresponds to a mental practice in which we all engage. We may take it that every individual, at some moment or other of his or her life, fondly imagines a path his or her existence did not actually take and yet might have done. The starting point for such a reconstruction is the question, “What would have happened if?” or “What would happen if?” Imagination and the desire to enjoy conditions of life that seem better for themselves and their families prompt individuals to conceive a world that may have happened or would happen if a particular decision beyond their control had not been made in the past or was not made now. In other words, where people have known adversity in their lives, the operation can be stated as follows: “If such and such a disaster had not occurred, I’d have had less drama in my life; my schooling, my relations with friends and family and my occupational activity would not have been so disrupted; in a word, I’d have got further in life.” This argument goes over quite naturally into an indictment of the external agents responsible for the initial conditions that set the individual’s existence on its unfortunate course.

In recent years, popular culture, particularly in the fields of film and the novel, has favored counterfactually based narrative. To offer the individual the opportunity to imagine a life that might have occurred is one of the commonest devices of fiction. The position of cinemagoer or reader generally makes possible escape from a banal and, at times, sad reality, by facilitating identification with more exciting, if not better, days. More particularly, several best-selling authors have given an even greater role to counterfactual logic. They have adopted it directly into the course of their narratives, putting it at the heart of their plots. They

have offered the viewer or reader a parallel between a reality as it should have happened in the story they are telling, or as it has happened, and a substitute course of events that might have happened or could happen if one of the occurrences of “true” reality had been, or was now, modified.<sup>42</sup> In “Minority Report,” for example, Steven Spielberg depicts a world in which the police are able to visualize in advance the true reality of a crime that is going to occur.<sup>43</sup> As a result they thwart the crime and, in so doing, transform reality. The counterfactual logic takes the following form: “If the police could foresee a criminal’s acts and the conditions in which he was going to commit his crime, intervention by the forces of law enforcement would mean that his victim would not die.” By extension, “If the police could foresee a criminal’s acts and the conditions in which he was going to commit his crime, and did not equip itself with the means to prevent that crime, the state would be responsible for the fate of the victim.”

This vein of fiction is in the French tradition of “*uchronias*.” An author imagines a history not far removed from the reality presented by his narrative or supposed such by the reader (e.g., a known historical fact), takes inspiration from it, transforms it, and presents the story that might have taken place, modifying one of its occurrences. What would have happened, for example, if Napoleon had won at Waterloo? The counterfactual mode is part of an old tradition and is undergoing a spectacular revival today.<sup>44</sup>

There is also a scholarly dimension to counterfactuality. Through it, counterfactual argument has acquired a significant position as a critique of reality and, in consequence, of the decision that brought it into being. Logic and history give counterfactuality—an often virtuosic—scientific and intellectual coherence. Following Leibniz, with their writings on causality and comparativist methods, David Hume and John Stuart Mill paved the way for reflection on counterfactuality. In the field of logic and analytic philosophy, two branches of the subject in which Anglo-Saxon studies part company with “continental philosophy,” much has been written over the past twenty years or more on the validity, status, and scope of counterfactuals. These publications are sometimes difficult; they are not widely known in Europe and particularly not outside academic circles. The core argument of some of these writings is that there is not a single “reality”: the reality that concretely came to pass is not the only one. In keeping with the Platonic tradition, there is a reality of the world of ideas and, consequently, a plurality of worlds, including those that have not come to pass or never will.<sup>45</sup>

A debate on the possibility of the “virtual” goes together with a moral discussion. The reality of the possible world must be plausible. Where contemporary moral indictments are concerned, this idea would imply that the advance to a better world has been thwarted. The better world that has not come into being is revealed and its disclosure merely stokes the frustration of those who see themselves as victims of history. It encourages them to call to account those who have thwarted the history that would have made their lot more favorable.

Scientific studies prescribe rules for the elaboration and use of counterfactuals such as are implicitly or explicitly exploited in the indictment of institutions for the harm they have allegedly inflicted—or are about to inflict—on complainants. Taking these demands seriously necessarily implies measuring them against the specified criteria—all the more so as this philosophy and logic have, in fact, found an extension in the field of the social sciences in the form of an applied theory. A number of historians have gone down this path<sup>46</sup> and seek to show in their writings that a counterfactually based methodology is capable of casting light on the field of history by giving a fresh impetus to the philosophy of history and to reflection on causality.<sup>47</sup> Quite clearly, these deliberations on the possibility of a counterfactual history are not without their effects on the positions assumed by historians themselves when engaging in what are often polemical contemporary debates on historical causality. In these days of high-profile legal actions relating to a “past that will not go away,”<sup>48</sup> history professionals are regularly called in as experts to pass an opinion on the roles of the various protagonists of these events. Counterfactual logic is mobilized by these historians, and particularly by those who carry their arguments into the public sphere. In this case, it is used in a normative way: “If such and such a war had not taken place and certain parties had not been complicit in it, the fate of certain victims would have been different.”

This moral critique is clearly based on a new relation to reality. In a unipolar, liberal context, the rise of new protagonists in the global game, the promotion of new worlds inspired by idealism and religion, a critique that employs the criterion of utilitarianism, and argument in terms of counterfactuals all form the weft of a new web of meaning. They converge, as a result, in a virulent denunciation of the model of amoral *Realpolitik*, by dismantling its primary assumption. As its semantic origin suggests, the concept of *Realpolitik* necessarily presupposes the existence of a single *reality*. Such a certainty has, in recent times, been dealt a heavy blow. In the field of knowledge and at the

heart of practical power politics, the battle over reality has left realism substantially weakened as a scholarly position meant to guide an efficient praxis. The realist vision has been forced to confront its critics and rivals. This highly dogmatic reality principle has begun to come under siege. Realism itself must justify its own claims.

## CHAPTER TWO

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### *Is There any Shame in Being Cynically Realist?*

He may be an S.O.B., but he's our S.O.B.

—Franklin D. Roosevelt, as quoted in  
W. Michael Riesman (1989)

These choice remarks are attributed to the American president, speaking of the Nicaraguan dictator Anastasio Somoza. Roosevelt's caustic maxim has passed into the history of international anti-morality: it announces and reflects quite accurately a certain "spirit" of the Cold War.

What is the deep nature of the post-bipolar break? On what is it founded? The revolution it represents is based, initially, on a shift into another reality. A number of essays espousing this conviction have shown the corrosive effects of globalization on state sovereignty. Depending on the authors and their particular ideological preferences, these are either critiques of liberal oligarchy or paeans of praise to the market and human rights.<sup>1</sup> In France, this has been a particularly long-lived debate, as a result of the modification of the Republican model. In fact, the specificity of this change in relations of sovereignty expresses a more fundamental break: the erosion of traditional forms of sovereignty simply derives from new international relations. A change of attitude toward realism at a prior stage is the motivating driving force behind this great transformation.

The issue is both epistemological and political. In the realist view, reality is seen as a single thing; it corresponds to the objective nature of power relations between states. The real is rational and the task of realism is to illuminate that rationality. In the Cold War context, this



pretension to instrumental rationality was predominant: reality existed but the way we looked at the nineteenth century and its balance of power was the best guide to understanding the contemporary world. In their role as advisers, the realists sought the structure of that *Machtpolitik* in the weft of the Cold War, in order to conserve what, in their view, represented a precious guarantee of stability.

According to a classical conception, the social sciences can and must give an account of reality; it is their scientific responsibility to do so. *Realpolitik* as model and practice is this epistemological option. However, realist epistemology met with criticism and competition in the 1960s from the paradigms of subjectivism, constructivism, and hermeneutics.<sup>2</sup> The real was no longer the real that realism claimed it could indicate; a multiple and complex reality emerged, constructed by the subjectivity of each. As a result, the foundations of realism were already precarious long before the critique of realism in international relations, triggered by the end of the Cold War, manifested itself. This revolution in the social sciences gave vent to a generalized skepticism and a critique of power not unconnected with May 1968 and with one of its high points, the mobilization against the Vietnam War. This attitude of doubt continued into the 1980s, particularly in postmodern "*pensiero debole*" (weak thought).<sup>3</sup> The advance of the critique of epistemological and political realisms took place in several stages. International politics impacted on epistemology, and alternative models of explanation of the real were brought into being by the end of the Cold War. These then contributed to ousting international realism from its hegemonic position.

Realism advocates a scientific approach. The criticisms directed at this school of thought, like the reproofs its practitioners have to suffer, undoubtedly symbolize a historic change. The classic approach of realism states that morality is strictly subordinate to politics: there can be no place for the moral subject in the arena of nations. This realist dogma is coming under severe challenge from a growing number of skeptics; its impact on the practices of power is direct.

### **What is Realist Thinking?**

Realism emerged in the interwar period and was initially embodied in the thinking of Edward H. Carr, who held the chair in international relations at the University of Aberystwyth, where the discipline had first been academically recognized.<sup>4</sup> Carr contended that political analysis had to separate itself from law and morality. The violence of

the fighting in the trenches and the approach of World War II lent credence to the vision of a world resembling Dante's *Inferno* in which, to survive, it was absolutely necessary to shed the illusions of hope.

Realism is the product of history. It was the theory that emerged dominant from the Allied victory and it arose out of culturally and historically situated thinking both in Europe and America. Carr's position was developed, in fact, against the background of the dark history of the European continent. Moreover, a number of the thinkers who pioneered an amoral, deterministic approach within the subject were German. Realism subsequently transplanted itself to the United States after World War II.

There were also sociological reasons for its success in America. During or after World War II, many specialists in what was to become the political sciences left Germany and took refuge in the United States. Like Hans Morgenthau, the political scientist who is rightly regarded as the founder of realism in the United States, several of them were Jewish. First published in 1948, Morgenthau's work *Politics Among Nations* remains to this day a major reference for this school. The life of Henry Kissinger, who was professor of international relations at Harvard before becoming a statesman, followed the same course as Morgenthau's. In the late 1930s his family migrated to the United States, where the young Kissinger soon found success. Without doubt, the wartime experiences of these two crucial figures greatly influenced the American interpretation of international affairs. Anxiety followed them to the Promised Land of asylum. In the effort to keep it at bay, without however overcoming it, they carried reason with them in their luggage. Their interpretation of reason did not bring reassurance; the fear of seeing a major war break out again haunted their intellectual careers and their resettlement in the new world.

Paradoxically, when they fled the *Reich* these migrants also exported Metternich and Bismarck, thus effecting the transfer of an unavowed heritage. It is surprising to note how close Morgenthau's arguments are to Carl Schmitt's analysis—particularly his conception of the political.<sup>5</sup> The definition of the "concept of the political" as "intensity" of association between humans (as opposed to a substantial definition) appears in Morgenthau's doctoral thesis, which the young jurist sent to the philosopher in 1929.<sup>6</sup> One can see this in the text Morgenthau extracted from his thesis and published in French in 1933.<sup>7</sup> The parallel between Kissinger's analysis of the Congress of Vienna and Schmitt's interpretation is equally striking. Both men praise the 1815 Treaty that established the European balance of power, while expressing satisfaction at

its stabilizing role in the face of the threat Napoleon represented for continental order.<sup>8</sup>

For both men, international relations are not governed by norms: states are not bound by any laws and law is a fable that has no significance outside university lecture halls. The war of each against all, the fear of seeing the strong caught unawares by the weak, and the need for deterrence are the essential components of the realist interpretation. Those who hold the reins of foreign policy in government must be fully aware of this in order to forearm themselves against disaster; good government, through the wielding of power, charts the path to the stability that preserves the world from the outbreak of major wars.

Armed with an assurance of this kind, realism is a theory that asserts the primacy of the political. It has eyes only for the state, concentrates exclusively on the executive, and asserts the autonomy of the political. The political is one and indivisible. All other parameters—the economy, the social dimension, and, above all, morality—are subordinate to it, playing virtually no role. Carr's thinking here is unambiguous: "Theories of social morality are always the product of a dominant group which identifies itself with the community as a whole, and which possesses facilities denied to subordinate groups or individuals for imposing its view of life on the community...morality is the product of power."<sup>9</sup>

For Hans Morgenthau, the two founding principles of realism are the optimization of power and the pursuit of the national interests of states. Despite such materialism, morality still has more of a place in his thinking than in Carr's foundational text.<sup>10</sup> He states, in fact, that he grants a certain place to "international morality,"<sup>11</sup> yet this is, nonetheless, ambiguous. Morgenthau admittedly refuses to leave morality out of his thinking entirely, but this is linked to his personal history. The decision is, in fact, dictated by his desire to ward off relativism: if politics and power determine all values, then no morality is preferable or superior to any other. Could Hitler's morality be of equal value to Roosevelt's? Could Stalin have the same sense of political obligation as Truman? In 1948, judged against Morgenthau's experience of Nazism, such a conception was unacceptable. This reservation salves Morgenthau's conscience, but ultimately does not greatly influence his definition of realism. We have to concede that he clearly lays down the terms of the domination of morality by politics, and in this his thought is not fundamentally different from Carr's. In the revised edition of *Politics Among Nations*, Morgenthau examines the case of Vietnam. Realism can reach a decision on this without difficulty or reservations: the American state

must simply be concerned about the consequences of its acts, without, however, being directly responsible for them.<sup>12</sup>

### Is Realism a Philosophy?

The realists took their inspiration explicitly or implicitly from several philosophies. The classics of *Realpolitik* are peppered with numerous references—in the form of scattered borrowings—to thinking on power. The way these are employed can, however, be shown to be questionable. In effect, realism's main function was intellectually to underwrite a new social science striving for recognition.

Realism claims roots chiefly in Hobbes. Man is aggressive by nature and only the order of the Leviathan, as embodied by the state, compels him to give up his murderous desires. Realist theory takes the view, then, that the international sphere is fundamentally anarchic, precisely like the Hobbesian state of nature. Clearly, the analogy with Hobbes ends there. The Leviathan arises out of this primal scene of violence, whereas by contrast, as the most classical realist theory argues, no supra-national state is viable and no institution is able to contain the dynamic of the competing national powers.

Hobbes, incidentally, says nothing or next to nothing about war between states. To justify their reference to the Hobbesian theory of anarchy, realist writers are fond of recalling a passage from chapter thirteen of *Leviathan*:

But though there had never been any time, wherein particular men were in a condition of warre one against another; yet in all times, Kings, and Persons of Sovereigne authority, because of their Independency, are in continuall jealousies, and in the state and posture of Gladiators; having their weapons pointing, and their eyes fixed on one another; that is, their Forts, Garrisons, and Guns upon the Frontiers of their Kingdomes; and continuall Spyes upon their neighbours; which is a *posture of War*.<sup>13</sup>

Hobbes does indeed speak of war here, employing the gladiator metaphor,<sup>14</sup> but the passing analogy with war between nations is a fleeting parenthesis in his basic thinking. The high priests of realism see this as a theoretical confirmation of their insights, but in fact they take these few lines out of context. War between states never figured in Hobbes's thinking, though realism has nonetheless used this passage to further its claims.

By manipulating Hobbes's thought, the realists identified the Leviathan with an individual under threat of death.<sup>15</sup> This analogy, based on an anthropomorphization of the state, raises another problem. *Realpolitik* makes no distinction between human relations and relations between states composed of human beings. Hobbes in this same passage stresses the essential difference between the condition of states and that of human beings: "But because they uphold thereby, the Industry of their Subjects; there does not follow from it, that misery, which accompanies the Liberty of particular men."<sup>16</sup>

Hobbes concentrates on individuals and his theory is of no great help in understanding war between states. In the frontispiece to *Leviathan*, the illustration showing a clash between two armies is revealingly positioned. Set at the bottom left of this large picture, it is marginal to his political imagery: it is offset from the center of the frame. The Leviathan is made up of a multitude of individuals. The image representing war includes men, but not the main body of an army. In no way does it provide a theory of war that would require us to consider the specificity of the relation between states, the hierarchy between different levels of decision-making within governments, and the remits of the various powers.

Realism also developed its determinism by reference to a geopolitical vision. This reflects a long tradition. Historically, states and their leaders were the sole depositories of reason, which takes a view of the world in its most synthetic form. The geography of ambassadors was the geography of strategists.

The international system was defined by the balance between the centers of power, between states and groupings or blocs of states. This division of the world arose out of a science that was, in many respects, already heralded in geopolitics, as that discipline emerged in Germany or the United States in the nineteenth century. Many of the founding fathers of geopolitics had, in effect, divided the world along lines of force that derived from their reading of maps. Some states had a more strategic position than others, one particular example being America, a naval power that is not easy to attack, or Germany and Russia at the center of the European "heartland."

Geopolitics is a fixed view of the world. Admittedly, its maps have evolved to some extent in more than a century, yet virtually timeless principles dictate its representation of the globe. Geopolitical materialism bases itself mainly on the surface areas of states and their position in relation to potential enemies, their military power, and also the strength of their cultures. Down the ages, America, Germany, Russia,

and China have remained the principal foci of this division of the world. It is an applied geography that is not without its scientific pretensions. Just like realism, its criteria claim to be objective and it makes much of its value-freedom.

Doubts arise about geopolitics, however, if we examine the parallel between the development of this science in Germany and a current of thinking emblematic of the nineteenth century, essentialist Romanticism, which ultimately spills over into a racial nationalism. Geopolitics is, in many respects, the reflection of Spengler's deterministic arguments in praise of the differential vitality of cultures.<sup>17</sup> That author depicts a great panorama of cultural development, assessing the role of the great geographical areas in the making of the modern world. This is where Friedrich Ratzel, the founding father of geopolitics, found his inspiration.<sup>18</sup> Such a science clearly has troubling resonances given the place of the Spenglerian reference in Nazism. It is clearly not a form of knowledge to guarantee stability in international relations.

For realism, these references represent strong certainties that are intended to reinforce its position. They underpin the development of a theory that, despite the strength of its representation in both the state and the academy, has for some twenty years felt a need to defend itself against its critics. Realism is the reflection of the world it has built: it feels constantly under threat and complains of being unloved.

### The False Objectivity of Realism

Realism presents itself as a scientific theory. Within the positivist tradition and the Rankean conception of history, the social sciences concern themselves with the facts, and scholars are obliged to bracket out their own values and assumptions.<sup>19</sup> Science has become objective; it illuminates a reality untrammelled by subjective perceptions. It is not normative and does not lay down any course of conduct: it is an explanatory model.

However, realism has a clear normative intent.<sup>20</sup> The state, asserts Morgenthau, *must* optimize its power and *must* endeavor to pursue its national interest. This classical approach is confirmed by the attitudes to power of both its theorists and its practitioners. Henry Kissinger is the paradigm case of this normative dimension of realism. His contempt for the idealism of the "noble souls" and cynical attitude to a "clean-hands morality" bear realism's stamp. He does not beat about the bush: "Moral claims involve a quest for absolutes, a denial of nuance, a

rejection of history.”<sup>21</sup> It is easy to turn this argument around against its author. Kissinger’s political amoralism is, in itself, an equally absolutist moral stance. In terms of values, the subordination of politics from below to politics from above, the hero-worship of the statesman and the veneration of his decision-making are all options that involve a conscious commitment on the part of the decision-makers.

When it states its claim to objectivity, realism faces a dilemma: is it, we may ask, a theory determined by a history of the twentieth century, a theory that is, consequently, destined to disappear with that century? The founding texts, particularly those of Carr and Morgenthau, do not confront this question directly. For his part, Kissinger skates around it and, in the end, falls captive to it. Embracing the whole of political modernity, Kissinger writes a history that runs from the Treaty of Westphalia to our own day.<sup>22</sup> International relations have changed over three hundred and fifty years, yet the explanatory model is changeless. Kissinger freezes his explanation in a single model, choosing the easy option taken by so many structuralisms and giving in to the illusions of an Hegelianism that identifies modernity with the unsurpassable emergence of the state. When he anchors the meaning of history in state rationality, Kissinger locks international politics forever into the highest stage of *Machtpolitik*. This history-made-theory is unidirectional; it announces a praxis entrapped in a false certainty.

When it is presenting long-run history or, alternatively, if it is being purely abstract, realism is stating a law of nature. As the frequent references to Thucydides’s *History of the Peloponnesian War* imply, realism is supposedly able to explain the entire history of nations. As a result, the contradiction between the implicit historicity in Carr or Kissinger and the timeless scope of the model remains unresolved. By flaunting its claim to timelessness, realism attempts to discredit its competitors by attributing their ideas to passing fashion. It claims to be objective since it lays out the changeless rules of a system and, for the realists and their followers, the Cold War and its maintenance of the international status quo confirmed the explanatory virtues of the balance-of-power model. Yet the post-Cold War period has put that model to the test and found it severely wanting. Realism is not the best theory for explaining the contemporary world and aiding decision-makers. We may doubt whether it ever was the best explanatory model.

Realism’s claim to objectivity comes up against another stumbling block: no other social system is vaster and more diversified than the international system. Unconcerned, realism forges an explanatory theory that rides roughshod over all geographical, cultural, demographic,

or social barriers. The little group of realists has built up an immodest theory of planetary proportions. Despite the many examples that might challenge the general idea of power maximization, realist theory has chosen not to countenance the possibility of falsification. It is profoundly rooted in its own subjectivity and has undergone little amendment, with the exception of the neorealist venture of the 1980s.<sup>23</sup> By choosing to ignore their critics, except to intimate that they are incapable of grasping the subtleties of their thought, the realists have sidestepped one of the major difficulties of scientific theory-building. They have avoided submitting themselves to one of the indispensable tests of objectivity: empirical refutation.

Realism is also a theory based on fear. States are afraid of potential adversaries whose power is greater than their own and their rulers have to incorporate the nagging fear of invasion into their decisions. In proclaiming this universal rule, the realists were exploiting fears of the repetition of a conflict on the scale of the two world wars of the twentieth century. They were taking advantage of the memory of total war and their public acclaim was dependent on a subjectivity based on fear and even anxiety.

Lastly, realism possesses a characteristic that shows up in the relations that have long pertained between its representatives and their opponents. These latter experts and activists have called on realism to justify the validity of its model and the positions ensuing from it. However, such requests have met with the contempt of the superior dealing with an inferior aspiring to equality. This has brought two strands of the political tradition into opposition: legal scholars and moralists have lent no credence to the explanatory power of *Realpolitik* and have refused to accept its assumptions, which run counter to their hopes and beliefs. For its part, realism, this strong theory of the powerful, walled up this dialogue of the deaf within the precincts of its own hegemony.

A series of antinomies underlie this unequal relation between realists and idealists. Realist science stands opposed to the religion of altruism: rationality is advanced to disparage belief and foresight asserts its primacy over illusion. Idealism has been forced to put up with repeated mockery from realism, in accordance with a culturally situated anthropological pattern: realism is said to be an active policy, whereas idealism is supposed to derive from an intellectual matrix associated with passivity. All in all, realist politics is associated with the trope of virility, whereas idealism is an effeminate theory.<sup>24</sup> This contemptuous, phallogocentric accusation is not exclusively the product of a crude male-chauvinist fantasy. As we have to admit, the division of labor in



international relations mirrors this construal of reality. In the United States realist political scientists are—or traditionally were—men, who have held a monopoly on defining the discipline. They mark themselves off clearly from their opponents, sociologists and legal scholars, many of them female, who have now moved from the margins toward the center of international studies.<sup>25</sup> A work by Robert Kagan, one of the high priests of American neoconservatism, is illuminating on this point: Hobbesian America comes from Mars, he says, whereas Kantian “old Europe” is attached to a Venusian law. Kagan’s argument is wrong-headed from every standpoint. It distorts the thinking of Hobbes and Kant and in no way reflects current international politics.<sup>26</sup> It nonetheless reveals a state of mind inspired by a metaphor of sexuality that has endured since the origins of *Realpolitik*.<sup>27</sup>

### Realism under Scrutiny

Does Hobbes provide a rampart against all ordeals? Several leading figures within realism have come to worry about a change of course that, in their eyes, spells danger for American security and the world. As soon as the Berlin Wall came down, Henry Kissinger sized up this phenomenon. He rightly feared that liberal hopes, reinforced by the celebration of human rights, might lead to a neglect of the agonistic dimension of international relations, together with the ensuing security imperatives. For Nixon’s former secretary of state, the return of Wilsonianism gave cause for concern. This tendency, which Kissinger had spent the whole of his life fighting, was resurfacing in a context more favorable than ever. Cold-War Wilsonianism necessarily presupposed adaptation to bipolarity. In a unipolar situation, the dream of a world converted to democracy became an objective liable to gain many more adherents.

American policy was roundly criticized by the realist rearguard when crises such as Somalia and Kosovo broke out. The Somalian operation earned Clinton a wounding caricature of his foreign policy: charitable action had, it was said, caused America to lose its sense of reality and ignore its most immediate interests. Similarly, the war in the Balkans, fought under a humanitarian banner, inevitably gave rise to bitter debates. The most traditional realists like Kissinger—but also people like Michael Mandelbaum—criticized the intervention severely. Here, the exchange between Michael Mandelbaum and Stanley Hoffmann shows up the opposition between “hawks” rooted in outdated models and—old or new—“doves,” borne along by favorable winds.<sup>28</sup>

The interventions of the 1990s, together with the complaints directed at America and the UN on account of their inaction in the face of the Rwandan genocide, all provide evidence of a changed attitude toward realism. This particular *Zeitgeist* plunged the proponents of *Realpolitik* into melancholy. For John Mearsheimer, professor at the University of Chicago, the realists had never been popular and the 1990s marked the low point of this wounding lack of regard.<sup>29</sup>

### Who Won the Cold War?

The Cold War ended in a victory for the Western camp dominated by the United States. The outcome is not in doubt. The nature of that victory and the precise way it came about are, however, very much in question. Did U.S. security policy get the better of the USSR? Was the victory attributable to the military strategy inspired by the principles of *Realpolitik*? For the Reaganites, their ideas are clearly the tokens of this success. The defeat of the “Evil Empire” resulted from a finely judged intransigence; it was the product of the maximization of American power, which undermined the Soviet regime, dragging its sister countries down with it.

The American victory had a revelatory effect, and several historians publicly passed judgment on the reasons for the defeat of the Soviet empire.<sup>30</sup> Implicitly, some were expressing an opinion on the use of the various models employed to analyze international politics and the performance of realism was evaluated as a result. The Americans were keen to learn the lessons from a great historical saga with themselves cast in the role of heroes. Had realism, the theory espoused by many of their leaders, been effective?

Reagan’s entourage celebrated the defeat of the Soviet empire with enthusiasm and self-satisfaction. Victory was put down to a number of foreign policy decisions for which the president’s advisers claimed credit. These experts’ profiles are all the more interesting in that several of them are close to George W. Bush today—particularly Richard Perle and Irving Kristol.<sup>31</sup> These conservative figures stressed the decisive effects of U.S. nuclear policy and the deterrent effect of the United States’s sophisticated weapons. The politico-strategic model had, they said, forced the Soviets to throw in the towel, when they saw the enormous gulf that separated them from their American enemies. The politics of Mars defeated Communism.<sup>32</sup>

It is easy to give the lie to this interpretation. The victory the hawks appropriated was not actually theirs. Once again, realism reveals its

very limited commitment to scientificity: rather than consider the elements that might disconfirm the theory, its ideological representatives selected—most often improperly—arguments that supported their case.

Three points show up the deficiencies in the narcissistic celebration. First, Reagan actually favored nuclear weapons less than his advisers did; on many occasions he indicated his desire to scale down his programs. Despite the official doctrine proclaimed by his entourage, his secret penchant was for cooperation and liberal internationalism.<sup>33</sup> At the same time, many Soviets benefited from contacts with UN groups won over to the argument of a “new world order,” shorn of bipolar rigidities. Second, the 1980s were characterized by the rise of peace movements that benefited from the openness that went with liberal interdependence and democratic pluralism. Lastly, the level of trade between East and West increased considerably during the 1980s, Reagan himself putting an end to the wheat embargo declared by Carter.<sup>34</sup> Furthermore, in keeping with NATO’s wishes, the pipeline carrying Soviet gas to the Western countries had the effect of accelerating trade.

Economic constraints are either absent from realism’s mythical self-explanation or, at best, given a subordinate role. In the aftermath of the fall of the Berlin Wall, politics was regarded as central to the American victory. Some years later, by contrast, economics came to be seen as the determining factor.<sup>35</sup> America was outstripping the USSR and the differential between the two economies exceeded American estimates. The Soviet economy was dragged into unequal competition. Industrially, commercially, and financially, the superiority of capitalism was beyond dispute. In particular, the USSR had extreme difficulty providing adequate levels of research-and-development funding. Arms expenditures were, admittedly, responsible for this detrimental allocation of assets. Much more significantly, the scale of the dependence of the satellite states imposed severe constraints on Soviet policy.<sup>36</sup>

As Brooks and Wohlforth demonstrate, another economic dimension inherent in the development of capitalism undermined the Soviet empire. During the 1970s, and particularly the 1980s, the largest multinationals undertook a restructuring that led to a better distribution of their foreign investments, thus leading to lower costs. They increased their investment in research and development and speeded up the pace of alliances between firms. The Soviet Union was not able to follow suit and, as a result, its economy missed out on this transformation that produced a growth in capitalist profits (table 2.1).

**Table 2.1** Soviet economic performance during the Cold War endgame (1986–1991)<sup>37</sup>

	1986	1987	1988	1989	1990	1991
GNP growth (% per year)	4.1	1.3	2.1	1.5	-12	-13
Internal debt as a percentage of GDP	20	22	36	43	55	n.a.
Budget deficit as a percentage of GDP	-2.4	-6.2	-8.8	-11	-14	-20
Balance of payments in convertible currencies (billions of US\$)	0.637	-2.3	-0.72	-3.7	-11.8	n.a.

The realist explanation leaves out of account another basic variable: the influence of ideas. Yet to explain a historic change on the scale of the fall of the Berlin Wall, this dimension turns out to be crucial. It came as a surprise to the realists when the Communist bloc collapsed in 1989; their structural determinism did not help them to gauge the extent of the changes that had been occurring. Because the USSR needed to modernize its economy and state apparatus, its system was all the more sensitive to liberal ideas where cooperation with the West was concerned. The attractiveness of ideas and the pull of consumerist hedonism drew the Soviets, both government and governed, nearer to the West. The ideological dimension of liberalism, its tradition and anthropological models were at the heart of Gorbachev's new policy.

These analyses converge and highlight the influence of globalism on the collapse of the Soviet empire.<sup>38</sup> Economic and political liberalism, liberal internationalism, and the lifestyles of the democracies brought about the fall of the Soviet empire. This explanation soon found a very wide resonance in the various Western societies, leading to a critical evaluation of realism, which was both challenged as an explanatory model and decried for its lack of efficiency in achieving its stated objectives. The critique of governmental reason was off and running.

### A Moral Victory for Liberalism?

Liberalism drew realism little by little on to its terrain, the quantitative measurement of performance and efficiency. By providing evidence that its ideas were better than those of the Realpolitik

school, liberalism gained a position it had never previously occupied in international affairs. Admittedly, its political and economic ideas were very long-established. However, a new phenomenon had occurred: the convergence between a revived theory and changes in the economic sphere, between an adherence to liberal practices in the field of power and a fund of sympathy in the various societies of both West and East. Proof by efficiency and this force of conviction here lent substance to the moral tradition to which liberalism claimed allegiance. To strengthen its position, liberalism saw to it that its ideas continued to be attractive; there were calls for it to exploit its moral superiority so as to attract as many people as possible into the liberal fold.

Liberal ideas now made steady progress. From the end of the 1970s, and particularly during the 1980s, several scholars, particularly Robert Keohane and Joseph Nye, stressed the impact of economic interdependence.<sup>39</sup> This situation was favorable to an extension of *laissez-faire* rules and to a shift in the state policies of America's partners toward opening up their markets and societies. The theme of the "open society," the Popperian idea taken up by George Soros, began to gain ground.<sup>40</sup> The superiority of liberalism became a focus for many debates. The protagonists involved vaunted the merits of the liberal idea and, alongside the demonstration of its effectiveness, it received general praise, particularly from a moral standpoint.

The theme of the "transition" to democracy appeared in the 1980s and developed substantially during the 1990s.<sup>41</sup> The transition professionals, both theoretical and practical—the so-called transitologists—exported their services to the various societies of Latin America and, subsequently, to Eastern Europe. Confident in capitalism's superior efficiency, and convinced of the causal relation between economic liberalism and pluralist democracy, these experts were eager to advise the new leaders of these formerly authoritarian and totalitarian states.

The moral superiority of liberalism over totalitarianism came to be taken as read. As a result, liberalism developed a more ambitious project. It now pitted its ideas against the model of its "enemy within," realism. Liberal idealism required that Anglo-Saxon law emerge as a force. It also channeled itself through international organizations. During the 1990s, a "liberated" United Nations<sup>42</sup> reinvented the tradition of liberal internationalism based on cooperation between states and concerted actions in the area of security.

### Judging Decision-Making

By proclaiming the good of humanity on the basis of what really had taken place, liberalism was also decreeing what ought to be. From the standpoint of this new “regime of truth,”<sup>43</sup> realism was unrealistic: it was also unreal, it had not happened. Its explanatory theory had not proved accurate. And, indeed, those in political power had merely pretended to conform to its principles of action. It had, in consequence, to be abandoned.

Liberalism here reversed the terms of the clash that previously characterized its dialogue with the military/strategic model. Its previous laughable naïveté was transfigured into legitimate enthusiasm. Conversely, arrogant cynicism was obliged to adopt a low profile; it was stigmatized for its overcautious pessimism. The idea that man is fundamentally good and can always be redeemed—liberalism’s congenital evangelism—gained ascendancy over the negative anthropology of realism. For Realpolitik, stability is probable, whereas morality is impossible. For liberals, stability is uncertain and morality is necessary.

The liberal transition involves a radical critique of state decision-making. It counters the thinking of certain conservative philosophers such as Carl Schmitt, who stress the role of decision-making in the definition of state sovereignty. “Sovereign is he who decides on the exception”—this is the starting point of Schmitt’s reflection on sovereignty.<sup>44</sup> It must be said that this political rationalism was swept away by the 1990s. Capitalism’s victory was won at a level below that of the state and, because of the failings of Communism, it was societies that were at the origins of the exceptional character of November 1989.

The coldness of realism, its claim to legitimate uncompromising acts in the name of the national interest, together with the Schmittian view of a theology of sovereignty, masked the depth of the liberal moment. These postulates were all the more dated for the fact that they were made the focus of a critical campaign based on a testing of their effectiveness. That campaign went on further to stigmatize their cruel amorality.

### The Moral Charge-Sheet

Let us come back here to a symbol, Henry Kissinger, the icon of a—both academic and political—realism, who personifies the intensity

of the Cold War. His transfiguration is one of the most interesting contemporary indicators of the break with the bipolar world: Kissinger has become a pivotal historical figure. He is the figure on whom the attack on institutions and their authority condenses, and around whom are united the moral critiques these institutions must confront. The totemic figure of Kissinger is exemplary for the dual role he occupied both as an intellectual and as a statesman, for his intelligence and dash, and also for his social rise to the heights of the establishment from having been a poor German Jewish immigrant to America.

Is Kissinger's day over? Having reached the heights of power in the 1960s and 1970s, he retired from state service and has, since the 1980s, occupied a more discreet place, running a consultancy for governments and big businesses. To employ the terms of Pierre Bourdieu's sociology, he has made his "symbolic capital" work for him by converting it into "economic capital."

However, such a change does not make for a peaceable retirement. Kissinger now despairs and criticizes the illusions into which, in his view, the post-Cold War protagonists have fallen. He has, in turn, been pursued by history. "The trial of Henry Kissinger," to quote the provocative title of the essay by journalist Christopher Hitchens,<sup>45</sup> is not a mere advertising catch-line. Kissinger is reviled the world over and legal proceedings have also been initiated against him, particularly in Belgium.

The world has changed. The flamboyant cynicism of Nixon's dashing secretary of state no longer strikes the right note. The pithy formulas he was fond of employing when he was at the height of his fame would, to say the least, be misplaced today.<sup>46</sup> Kissinger himself is aware of how far out of step with the times he is: "It is decidedly unfashionable to express any degree of skepticism about the way the Pinochet case was handled."<sup>47</sup> Bipolar conservatism has become something shameful.

Cynicism is fueled by the free expression of its provocativeness. Once this is shackled, cynicism withdraws snugly into itself. It thrives on its cheekiness (*Frechheit*), a weapon utilized to cleave idealism in twain. The cynic becomes melancholic if he realizes that the relation of forces is reversing, as idealism makes him, in turn, accountable for his outrages.<sup>48</sup>

Kissinger has always put forward a decisionistic theory. It is the desire and duty of elites, insofar as their charismatic resources allow them, to "leave their stamp on history." This conception of the political has elements of both Weber and Schmitt about it. From Max Weber it takes an interpretation of the charisma of the leadership function.

Kissinger assesses the resources a leader has available to him from both an administrative standpoint and in terms of a handling of the various cultural traditions. Charisma is the supplementary dimension that enables its possessors to affect the actions of their fellows. Here, too, the Schmittian aspect of Kissinger's vision is manifest. Kissinger establishes a theory of history, in which history essentially has its genesis in the decisions of a restricted circle of governmental elites. The decision taken by the statesman is the engine of this "big" history.

Can we, as we do today, judge great men and their careers? Kissinger's approach is at one here with Carl Schmitt's on the sacredness of the political. No one may judge the Leviathan. Kissinger is part of the same tradition that stamps Schmitt's thinking when the latter rails against the criminalization of the political, as represented by the trial of Kaiser William II.<sup>49</sup> In that world, decision-making belongs to a transcendent order. It takes shape in a mysterious state of contemplation, in a sanctuary that brooks no profanation.

Historically, Kissinger's critics did not wait for the fall of the Berlin Wall to express themselves in what, from the late 1960s onward, were stormy debates. He soon met with brickbats from his former colleagues in the academy. At the time of Vietnam he had many opponents on the campuses and one of the most famous of these quarrels pitted him against the Princeton legal scholar and political scientist Richard Falk.<sup>50</sup> Falk's critique was based both on irreconcilably divergent political positions—Falk's opposition to conservatism—and disciplinary differences—legalism against Realpolitik.

The detractors of Kissinger's policies draw attention to Realpolitik's abuses, particularly its breaches of human rights legislation. Support for dictators like Suharto or U.S. involvement in the Chilean coup are, similarly, a recurrent theme among the many charges leveled at the former diplomat.<sup>51</sup> He is criticized for his transgressions of international morality, which forbids support for dictators and calls for international law to be upheld.

These criticisms admittedly garner a great deal of support. They are not, however, the most indicative of the reversal of fate that Kissinger has experienced. Nor are they the most incisive when it comes to stigmatizing the offending behavior of the "counsellor to the Prince," ensnared as he is by his own delusions of grandeur. The significance of the human-rights-based critique was very limited at the time these misdeeds were committed; *raison d'état* was able to neutralize the criticism.<sup>52</sup> Human rights could not be a criterion for the evaluation of foreign policy; in many cases, this was merely an external critique with no effective impact.



To give greater weight to their argument, the critics of Kissinger's foreign policy modified their approach. Some of them—Richard Falk in particular—attempted to prove that realist theory contradicts its own postulates and actually runs counter to the optimization of the national interest. According to Falk, the Vietnam War was, in fact, needlessly expensive and, moreover, ignored real American interests.<sup>53</sup> This internal critique marks the beginning of a process that has assumed unprecedented dimensions since the fall of the Berlin Wall. It states that a doctrine becomes unjustifiable from the point where it is no longer valid in terms of its own criteria. During the Cold War, the critique of realism was confined to a circle of the elect within the American academic establishment, but it has now spread to wide sections of the population.

There are three reasons for its extension into the public domain in the democracies. First, the new force of ethical lines of argument fueled denunciation of the inadequacy of international amoralism. The 1990s no longer tolerated amoralism. By a rebound effect, that approach also became retrospectively suspect when considering a period in which the political dimension unflinchingly had the upper hand—a period of radical, unyielding opposition to the enemy. The second main reason for this turnabout relates to information. Thanks, particularly, to the opening of the archives, this is easier to access now than it was at the time. Critics of realist strategy are no longer dependent on sparse evidence or conjecture; they can draw on systematic, detailed documentation. Moreover, this exhumed history of a forgotten past is accorded curiosity value by the media. Lastly, there is one crucial reason for this development. The critique of realism is fueled by a generational effect. Many of the students who demonstrated fervently on the campuses in the late 1970s are now well into careers, in which some of them have even prospered notably. Kissinger's main detractors—journalists, humanitarians, lawyers—are now living out their student battles once again. This revenge on the history of the former masters is made possible by the professionalization of their activities and by success in work that provides a distant echo of their youth. This last dimension of the critique of realism represents an attack on the figure of the mandarin, as personified by Kissinger. A lively, urbanized 1968-er generation has gained a stranglehold on the temple guard of realist orthodoxy by reversing the roles: the old critic is himself exposed to the strictures of new judges. The emperor has no clothes; the teacher is flunked by his former students.

Viewed retrospectively, amoral decision-making is guilty: it did not bring about a rapid resolution of the war, but prolonged the conflict

needlessly. When he decided to extend the war to Cambodia by opting for carpet-bombing, Kissinger was not solving the problem of the Vietnam War, but was merely inflicting serious and needless collective suffering on civilians.

This moral critique of the consequences of an irresponsible decision is dangerous for the cynic. Vietnam spilled over into Cambodia and eminent experts on that country, such as Ben Kiernan, point to a disturbing causal chain: the carpet-bombing inflicted horrific civilian losses on Cambodia; it destroyed a social fabric that was essential to the equilibrium of that country, and Pol Pot took advantage of this situation of anomie to seize power. The United States consequently bears a large part of the responsibility for the extermination of the Cambodian people.<sup>54</sup> If it had not intervened in Cambodia, Pol Pot would not have come to power. The NGOs that harass Kissinger on his travels beyond American borders use this same line of argument. This demonstration of the needlessness and ineffectiveness of Kissingerian decision-making leaves the public prepared to accept his indictment for war crimes and mass atrocities.<sup>55</sup> Owing to the interest in chemical weapons, the wider public has also been alerted to the long-term physiological effects of a defoliant used in Vietnam to raze forests and fields to the ground in order to flush out enemy fighters.<sup>56</sup>

Liberalism is idealistic. Because of its pluralism, it is sometimes iconoclastic. The indictment of the figure of Kissinger epitomizes the post-realist turn. Against the imprecations of a naïve, idealistic sentimentalism, realist cynicism is based on a demonstration by force of the rightness of intransigence on the grounds of its effectiveness. By providing political proof that force is wrong when measured by the criteria it has itself laid down, its critics have achieved a result that no other contestation of the optimization of power has attained. Injustice, they argue, rests here on ignorance on the part of a baleful science. Both the content and the symbolics of these approaches are crucially important. They are the product of an unparalleled mobilization, the moral privatization of international relations.

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PART 2

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*Morality in Action*

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## CHAPTER THREE

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### *The Re-Enchanted Critique of Capitalism*

Honesty pays.

—Thomas Jefferson, president of the  
United States, 1801–1809.

The long-term aim of the moral critique of international affairs is the reform of the various power centers. Its denunciation of insensitivity covers both the political and the economic spheres. One of its first targets lies at the point where the two fields meet. The moral indictment of the forces of capitalism has the advantage of being both a critique of the economics of big corporations and a stigmatization of the power of states that support a market in which fine feelings can be said to have no place: this is one of the reasons for its success; it has become the rallying point for a critical discourse that calls the world to witness. The moral indictment of capitalism and the efforts to reform globalization are the paths taken by the revolution in the perception of the “world order.”

The moralization of capitalism stems from the reinvention of the different traditions of liberal morality<sup>1</sup>; the fall of the Berlin Wall made it possible to imagine this new world. Self-justification is one of the parameters of these new global identities that states—and companies—have been forced, and sometimes eager, to assume. One initial issue must be cleared up. Why do institutions endowed with power engage in justificatory policies that necessarily, at least in the short term, restrict their scope for maneuver? Why do they agree to subject themselves to an increasingly professionalized normative evaluation? What is the moral and political meaning of such a step?

### **The Era of the Moralization of Capitalism**

Both in the United States and Europe, a string of economic and financial scandals left their mark on the 1990s: the appeal to morality played a central role here. The various protagonists of economic life—mainly companies—were taken to task and called upon to justify their actions in the name of a virtue they had (apparently) been lacking.

During the dark days of Apartheid, campaigns were mounted against the multinationals trading with South Africa. These represented a turning point in the history of the moral critique of trade. A decade later, this movement was able to hail a victory. It subsequently produced imitators who were conscious, from the outset, of the difficulty of their task. The range of measures increased, requiring the deployment of new resources. With the rise of globalization, companies launched into ambitious international expansion programs. The “borderless world” was now the market *doxa*.<sup>2</sup> Moral critiques of capitalism adapted to this context and quickly incorporated this worldview.

During the Cold War, campaigns against the multinationals reflected a world divided by the Iron Curtain. For the political and economic leaders of the Western camp, the multinationals were entirely beyond reproach. They had a social function: to provide international protection for the “free world” against Communism. This conviction and line of reasoning did not survive the fall of the Berlin Wall. Mobilizations against the multinationals drew on this turnaround to gain renewed vigor. In a world conceived on the market model, the business critics developed a global PR campaign denouncing the iniquity of certain brands.

Some campaigns were conducted on a large scale. In sectors such as textiles, a number of entrepreneurs were quite receptive to the call to clean up their act. The most revealing example of such a “faith conversion” is Levi’s. That enormous firm, which was until recently one of the largest in its field, began quite early to reform the way it selected production sites overseas.<sup>3</sup> The personalities of its directors, the location of the multinational’s headquarters in San Francisco, and the *embourgeoisement* of a generation of former antiestablishment rebels go some way to explaining this conversion. The main reason was the mark left by the heritage of Vietnam and South Africa. University students, the main consumers of the brand’s products, were becoming increasingly concerned with human rights. Fear of the sanction of public opinion underlay the reforms that were taken, which were at

times expensive, at least in the short term. Images of abused children and peoples exposed defenceless to tyranny were the vehicles for this “transvaluation of values.” Yet the idea was not a new one. The pursuit of consent and moral approbation was the engine of liberalism’s return here to its doctrinal origins.

Other industries gave in to this “feelings market.” The oil and energy sectors, usually regarded as the least scrupulous of businesses (rightly, where many companies are concerned), had their champions of virtue. British Petroleum seemed to plough a lone furrow in taking certain decisions designed to forearm it against the risk of boycott. Minds had been focused here by a number of mishaps. The world of oil extraction was haunted by the example of Talisman, the Canadian multinational, and the troubles that beset it in 2000. Following denunciation by humanitarian campaigners of its negligence in the Sudan, its share prices were seriously affected.

The agrifood sector was not far behind. The image of Westerners with full stomachs profiting from famine in the South was part of the humanitarian thrust, as was increased concern for children’s rights. Certain coffee producers were prompted to invest in Fair Trade. The major food distributors now paid attention to the origins of their products and the supply chain that brought them into first-world shops.

The environment was also one of the fields where these initiatives took shape. Environmental rights and chemical or nuclear accidents were all so many calls for reform, heeded by companies sensitive to the issue of risk. These turned readily to cooperation with environmental experts.

Within companies, virtue had its enthusiasts, pioneers motivated by a conception of business that favored the long-term view. Belief in the era of the moralization of capitalism was underway. Like any market, the arena of virtue attracted new competitors, particularly when PR and advertising effects had such an important place in it.

### Interests and Values

This moral transition is based on a mirror effect: the critique of the economics of globalization echoes a denunciation of *Realpolitik*. Kissinger’s recent tribulations provide an example of this: here egoism is stigmatized on two counts. The upholders of international morality targeted the former secretary of state both for his past, as secretary of state, and in his recent calling as a manager. The activities of Kissinger McLarty



Associates allegedly lacked transparency.<sup>4</sup> That firm, which does in fact seek the utmost discretion, was said to be thoroughly unscrupulous in the choice of its clients. NGOs and the press pursued the theme with a will: Kissinger should desist, they said, from working with economic organizations whose identities were kept secret. It was, moreover, immoral that organizations whose motivations and acts were potentially suspect should profit from Kissinger's cynicism. In the view of his opponents, he should not derive economic benefit from his political crimes.<sup>5</sup>

Faced with such pressure, in spite of the sustained support of the Bush administration, the former secretary of state was forced to resign the chairmanship of the federal commission set up to investigate the 9/11 attacks and to identify the various responsibilities of American organizations in the matter. The campaign mounted against him stressed one simple idea: a civil servant must avoid possible conflicts of interest between public duty and private interests. If he had been kept in the post, Kissinger would have come under pressure to provide a list of the multinationals to whom he offered services.

This was a profound historical development. The moral focus brought to bear on the Vietnam War and the role of the American government had been refracted into a field in which the moralization of judgment had even greater chances of expanding and garnering new followers. While a number of protestors denounced American responsibility for an unjust war, the new moralists stigmatized the lack of morality of economic enterprises.

The economy is a field that is even more sensitive to such a charge than the political sphere. The critique of decision-making in a consequentialist mode, on the basis of the criterion of efficiency, has its origins in the British liberal political economy of the eighteenth century. Two centuries later, that same dynamic saw a powerful resurgence within the context of liberal globalization. The profit, on grounds of efficiency, to be had from virtue is both the base on which the moral critique of dishonesty rests and the engine that drives that critique. The critique of amoralism, justified on economic grounds, went back to the origins of the discipline.

New pages were added to the history of economics. The "virtue of private vices" was no longer to the fore and jibes were now heard against Mandeville's "Fable of the Bees."<sup>6</sup> In the 1980s, a cult was made of business ethics and honesty. Books popularizing the theme were widely read in the United States, where the profession of ethicist already had a long tradition behind it. Many works were published to

convince a whole profession of the need for understanding between the members of an organization; cooperation, it was said, depended on honesty. This current of thinking was consolidated with the appearance of business professions in the field of human resources. It mobilized the notions of transparency and accountability. It even went so far as to incorporate genuinely moral visions such as so-called care (an ethical stance developed within feminism).<sup>7</sup> France was also affected by this vogue for business ethics at almost the same moment as it took shape in the United States.

The idea of responsibility evolved and the moralists gradually came to pursue a new objective, the “social responsibility” of businesses.<sup>8</sup> In spite of some very great political misgivings, this idea gained ground within the inner sanctums of the academy. It gradually entered the managerial world. A business is a system that has prerogatives. It is, consequently, obliged to accept certain duties.<sup>9</sup> Companies have a rational structure; decision-making processes are supposed to be governed by reason. Such an approach to economic life is heir to the behaviorism of the 1960s and 1970s and to faith in an organizational rationale. The objective of this discourse is collective efficiency: the group is more motivated and efficient if it is able to state its goals with clarity.

A bastion of economic resistance to moralism had fallen. The 1970s denounced the morality of social responsibility that was attempting to make headway as (naïve or malevolent) utopian idealism (it was said to be the tree attempting to hide the woods of Red Army divisions). Such a critique is the most caricatural reflection of the Cold War: “When I hear businessmen speak eloquently about the ‘social responsibilities of business in a free enterprise system,’” said Milton Friedman,

I am reminded of the wonderful line about the Frenchman who discovered at the age of 70 that he had been speaking prose all his life. The businessmen believe that they are defending free enterprise when they declaim that business is not concerned “merely” with profit but also with promoting desirable “social” ends; that business has a “social conscience” and takes seriously its responsibilities for providing employment, eliminating discrimination, avoiding pollution and whatever else may be the catchwords of the contemporary crop of reformers. In fact they are—or would be if they or anyone else took them seriously preaching pure and unadulterated socialism. Businessmen who talk this way are

unwitting puppets of the intellectual forces that have been undermining the basis of a free society these past decades.<sup>10</sup>

This sneering attitude was by now singularly dated. Milton Friedman's cynicism had one effect: it served as a rallying point and slogan for the moralists, just as Kissinger's declarations during the Vietnam War were brandished on placards at demonstrations against the war. Selfish monetarism was no longer a model of rationality. It was difficult now to subscribe to it. Moreover, the call to accept responsibility converged with other protests against that school of thought. Milton Friedman's students, the "Chicago Boys," were the main architects of Chilean economic policy during Pinochet's military dictatorship.<sup>11</sup> This parallel between the denunciation of Kissinger (who supported Pinochet) and Friedman (who "sent in" his disciples to "save" the country), together with the interplay between politics and the economy, lent substance to the ethical denunciation.

### **Economics as "Moral Science"**

In the name of eudaemonism, the gauntlet was thrown down to arrogant, "realist" monetarism by an altruistic utilitarianism (pragmatic or self-interested, depending on the observer): Bentham and Mill were back.<sup>12</sup> Enthusiasts for the moralization of capitalism extolled the virtues of achieving the greatest happiness for the greatest number and hailed the possibility that an organization could steer itself into virtuous circles.

Economics is, indubitably, a "moral science." A number of sociologists, philosophers, and epistemologists have conceived its mission in these terms. We should also not forget that the liberals and utilitarians were also moralists. The critical gaze cast upon money has moral connotations; it is never value-neutral. Within economics, the various analytical models fight what is at times a fierce battle and the moral argument is used by the followers of a particular school to discredit its opponents. In short, liberalism survives by its own justification. At certain crucial phases of its history, it has developed visions of morality specific to its social and political vision. Utilitarianism, paternalism, social democracy, and the performance ethic are moral theories of self-justification. As some critical approaches stress, the protagonists in the world of economics use morality to reinforce their domination of the most destitute. Economic insecurity and an insufficiency of symbolic

capital leave these latter exposed to the incantatory effects of this justification of domination.

Each of these lines of thinking, which we find in authors as diverse as Albert Hirschman, Michel Foucault, and Pierre Bourdieu, has some truth in it.<sup>13</sup> The international analysis of economics as moral science and of its effects requires, however, a more specific focus. The moral dimension of liberalism is a classical tradition. The American tropism in international space, the place of ideas entrepreneurs, the dynamics of democratization, and the opening-up of economic and financial spaces encourage this tendency, with the newfound belief in the profits of honesty aiding. What are the stages this process passes through; what are the linkages within it, and where does it lead?

### **A Moral Vision of** **Efficiency: Trustworthiness**

With the fall of the Berlin Wall, liberalism lost its traveling companion and most faithful enemy. Norms, and hence morality, became inescapable parameters of international relations and the definition of power. Liberalism had won by default and was obliged to accept the honors that fell to the victor: morality was that recompense. On to the traditional linkage of the geopolitics of power, economics, and politics was superimposed the geopolitical triptych of power, economics, and morality.

The disappearance of Communism plunged liberals into a well of loneliness. Victory, welcomed with jubilation, required the followers of the liberal school and the practitioners of its doctrine to review their relation to society. The “open society” no longer had any direct enemies. Western societies built cooperative logics into a model of action; interdependence was the practical, doctrinal, and theoretical axis around which globalization articulated itself.<sup>14</sup>

Liberal societies were, admittedly, confronted with the “pariahs” of international relations. However, unlike the role played by the former socialist states, none of these was proposing an alternative economic system. Some followed a course of development that was a “reinvention of capitalism.”<sup>15</sup> They developed a protocapitalism with which the supporters of the liberal world most often rushed to trade. In other cases, the pariah states provided a home for mafia-style economies that functioned as free-trade regimes regulated by violence.

For liberals, the world is a market where allegiances are to be fought over. The obligation on liberalism was to live up to its victory and

draw the greatest possible number of adherents into the liberal fold. Liberalism traditionally assumes the possibility of reforming individuals; man is intrinsically good. This reasoning was extended into the international domain and the liberal crusade assumed global dimensions. Economists became increasingly present on the international scene; they advised the leaders of the new nations of Eastern Europe. This period saw the rise of George Soros's "Open Society Foundation," which had designs, in its turn, on the postcommunist societies.<sup>16</sup> Saving the world became an imperative.

Liberalism was faced with a quagmire. The advocates of free trade took it as their mission to unite the hesitant around the banner of virtue. The decline of the state, the erosion of faith in "big politics" as an explanatory model of international politics and the stigmatization of *Realpolitik* opened the way to new groupings: economics and morality were their two main pillars.

Liberalism—in the form of the states that claimed adherence to that doctrine, the international organizations promoting it, and, above all, the businesses that embodied it—was eager to advertise its efficiency. This justification by material proof is, in the first instance, part of the trajectory of the Protestant ethic analyzed by Weber. In a system where liberalism has no direct enemies, extolling one's own virtue is a natural inclination for the liberal. This discourse and practice manifested themselves in several forms in the 1980s and 1990s. Business was held up as both a political and a moral system.<sup>17</sup> Such a claim was based on the demonstration of the basic efficacy of microeconomics in a large-scale social system. The "network"<sup>18</sup> culture put a high premium on the importance of efficiency based on cooperation and "associationism," to which the various liberal philosophies subscribed.

At the international level, proof of the efficacy of liberalism took the form of various consultancy initiatives in Eastern Europe and in the countries of the South in their transition to market democracy. The IMF, along with a number of academics such as Jeffrey Sachs, invited themselves in to the palaces of Eastern Europe and the corridors of Latin American power. A crash course in political economy was indispensable for democracy's newcomers (or latecomers). The efficacy of liberalism was the credo of these missionaries; their aim was to prove the universality of its remedies.

During the 1990s, Anglo-Saxon liberal culture drew on technology to attract the attention of a "global audience" to the need to convert to the market credo. Technologies and networks brought people together; their flexibility meant they were more efficient than

hierarchical, centralized institutions. Technologies augment the power of individuals; they are part of the productive efficiency of the system and have, lastly, a genuinely spectacular, universal dimension. One of the components of American structural power, the so-called soft power, accorded an even greater role to technology. The revolution in information and communications technologies was seen as a trump card in the global conquest of allegiances.<sup>19</sup> Joseph Nye, one of the inventors of this new formula of “soft power,” was an adviser to President Clinton.<sup>20</sup>

This promotion of liberalism through the efficiency of the economy and technology was based on an anthropology: human beings are endowed with reason that enables them to grasp the need for mutual understanding. That efficiency has value in itself only if the system to which it lends meaning is trustworthy. The moral component of liberal economics quickly became one of the main axes of the critique of the system and of its own justification. Trustworthiness is the moral translation of efficiency; this idea also lies at the heart of a liberal tradition.

### The Shame of Selfishness

Praise for trustworthiness has a corollary: selfishness is a failing that makes human beings bad. The trustworthy person is open to exchange, whereas the selfish one is withdrawn into himself. There is much evidence of such associations of ideas, each semantically dovetailing with the others.

This anthropology is embodied in commercial and financial practices that go back concretely to the time of Apartheid. Despite the UN embargo, many companies traded with South Africa, largely by way of their subsidiaries inside the country. A broad campaign was mounted in the United States by African American movements, supported by investment fund managers from some of the country’s major universities and by many Protestant churches.<sup>21</sup> The activists involved called for these companies to withdraw from South Africa—to “disinvest”—and the investment funds threatened to sell their shares in companies that would not obey these injunctions.

This initiative inspired further mobilizations. The rise of the financial markets in the 1980s and 1990s helped to foster this development. The Stock Exchange was a social phenomenon that reached an ever wider audience. In many countries, for example, France, government

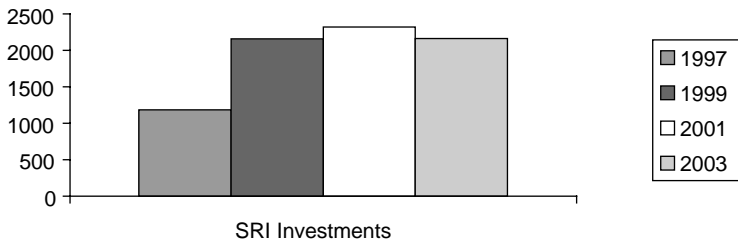
measures were taken to encourage investment in stocks and shares. Finance was in the media spotlight. It achieved its mission: to make public the value of a company decreed by the market.

Ethical stocks also made their appearance. Since the Apartheid period, a number of portfolio managers, mainly within religious organizations and the universities, had studied the extra-economic nature of the companies whose shares they purchased. They examined them in a deliberately normative fashion, assessing the company's development policy from a moral and humanitarian standpoint. The aim was to denounce the selfishness of companies that derived profit from a situation of domination and violated human rights. The entrepreneur was to be shamed, as was the investor who indirectly encouraged such practices.

When the campaign to stigmatize offending companies hit out at their selfishness, it conversely boosted the trustworthiness of other companies that were free from any taint of scandal. There were two strands to the message: the stigmatizing of the guilty and praise for the virtuous.

To be convincing, this promotional discourse had to provide evidence of an economic and financial reality that was at odds with a cynical view of the economy—it had, namely, to show the profitable progression of virtue. The publicity for ethical funds had a first strand to it: to obtain for the potential shareholder information on the growth of the capital invested in this area. The managers of funds specializing in sectors that excluded companies profiting from alcohol and tobacco, and which did not operate in countries where human rights were massively violated, substantially developed their activity and informed consumers about it. Their message was a straightforward one: it makes sense to invest in virtue. The increasing popularity of these financial vehicles was bound up with the development of the Stock Exchange and the promotion of ethics and human rights. There are, apparently, around two hundred socially responsible funds in the United States today (figure 3.1) and a few hundred more in the rest of the world (table 3.1).

The inventors of these formulas were sending out a second message to their audience: ethical funds were profitable. Their performance was said to be superior to the average of the financial indices. In economic activity, virtue pays. It was a guarantee of security for the investor who took the long view; it was reassuring insofar as the belief prevailed that the effort to be honest brings rewards. As Max Weber stresses, the development of stock exchanges is the symptom



**Figure 3.1** Growth of socially responsible investing investments in the United States (in billion dollars), 1997–2003.<sup>22</sup>

**Table 3.1** Ethical funds in 2000 showing total capital invested (in million Euros)<sup>23</sup>

United States	2,160,000
Great Britain	75,520
Netherlands	1,035
Sweden	964
Switzerland	792
France	412
Germany	254

of an attraction to gambling.<sup>24</sup> Playing the stock exchange could be said to be akin to a zero-sum game, pitting the big against the small in much the same way that international relations between states are seen in *Realpolitik*.<sup>25</sup> At the same time as realism was coming into question, moral entrepreneurs took the same amorality, here transposed into the economic field, as their target. The operation of the stock market always arouses contrasting reactions: unrestrained commitment on the part of some, profound distrust from others.<sup>26</sup> The publicity for ethical funds was targeted at those who took the latter view and it highlighted two elements. The business of these funds was based on transparency (there was said to be no risk of corruption and fraudulent bankruptcy since the companies selected by the funds were honest). Such an investment favored the long-term view and virtuous prudence: the honest company proclaimed sustainable development (synonymous with long-term profits); it had, therefore, a fine future before it (conversely, tobacco companies could in the future be forced to review the nature of their activities). The identity of the managers of these funds was a mark of confidence; it dissipated the fears of those for whom the Stock Exchange resembled a clip joint, where dissolute morals prevailed.<sup>27</sup>



These advertisements involve three types of agent: the company, the consumer, and the financial manager. The company demonstrates it is trustworthy, once doubts regarding its honesty, profitability, and investment potential have been removed. In some cases, the returns of these shares are higher than a global average of indices, however that varies. Most certainly, one should compare the ethical indices with other types of securities. These funds are not the highest-performing funds on the market in absolute value terms. Indeed, ethical fund managers are sometimes able to do well; they want to link honesty to profitability<sup>28</sup> and are constantly addressing the message to which the language of financial advertising constantly resorts: virtue is able to “beat the market.”

The individual investor gains reassurance from making the profitable purchase of a virtuous stock. He proves to himself both the economic and moral usefulness of his investment. He is rewarding a praiseworthy economic action, while at the same time increasing his capital. Ultimately, capitalism itself comes out of this decision with its reputation enhanced. The association between the company’s capital and the shareholder’s is the objective of this market-sustained paean to virtue. Such an assessment rests on an effect of faith: if the ethical funds become more professional by attracting more and more investors, the share prices increase as a result of sustained demand and the managers develop and improve their activities.

The fund manager sees to it that his message is disseminated widely in the market. The information reaches a wide audience, particularly through the major international newspapers, which devote many column inches to financial information.<sup>29</sup> The main financial centers—New York and London—have their own ethical indices, showing the mean performance of the various companies associated with virtue. Some fifteen years ago, the managers of these funds belonged exclusively to puritan, religious institutions, which in the United States were either churches or universities of broadly Protestant background. Today, secular operators have come into the market. The puritan branding is still a key reference, but these new financial professionals come from quite diverse cultural horizons.

In the long term, the companies and fund managers would like to provide their public with proof that virtue is rewarded. Ethical businesses should, they say, have a stock-market performance that enables them to compete with the highest-performing funds (whose results are very far above the market average). These companies would also have liked to prove their economic profitability, as some people asked themselves

whether the ethical business craze was not, in fact, similar to the promotional effects surrounding a financial bubble that might explode and rapidly disappear. Following the decline in the various markets after the autumn of 2000, several skeptics cynically gambled on this occurring.

But ethical funds did not disappear. On the contrary, they are continuing to develop and they have even held up remarkably when there has been a general dip in the markets. But their managers have not succeeded in proving the a priori profitability of this sector. On the financial level, they do admittedly have a return on capital higher than their competitors.<sup>30</sup> However, the superiority of their accounting profits over other companies is not proven.

This financial transformation casts light on a new “reality” of profit. Shame at selfishness is all the greater now that belief in a remunerative virtue is present. The idea that the only reality is a—necessarily amoral—profit has come to be seen as a fable that is not to be believed. There are other “economic realities”—not least, the reality of virtuous profits. Two centuries after Mandeville,<sup>31</sup> a new chapter has been added to the fable: the conversion of the hive.

This new history of economics fits in with one of the major concerns of capitalism: developing a dependable system that is capable of defending itself against the uncertainties generated by modernity. One of the major uncertainties is the risk to reputations run by the system and by each of its members. The example most illustrative of this exposure to the gaze of others is the Stock Exchange; if investors succumb to a crisis of confidence, all stocks, together with the institution itself, collapse. This fear gained ground during the 1980s and in the following decade, at a point when a number of financial shocks were hitting Western societies. Francis Fukuyama clearly was in tune with the *Zeitgeist* here. The advocate of the “end of history” argued that the system needed to recommit itself to an anthropology and ethics of “trust,” which he saw as alone capable of enabling really profitable growth to continue.<sup>32</sup>

### **A Moral View of Economic Interdependence**

During the Cold War, the upholders of capitalism in the free world gave no quarter to dissident socialist voices. In such a context, the critique of business was stigmatized and associated with the Eastern bloc. Such an identification quite clearly had repercussions. Most particularly in the American context, reformist voices were discredited and further

credence was lent to the entrepreneurs' belief that their actions were irreproachable.

Bipolarity was amoral at the economic level; the post-Cold War period marked a turn to the pastoral. It was possible to look coldly on the threat from the East; it was unimaginable to be insensitive to the plight of the South and the courage being shown in the East. Defense of the "voiceless" came out of the third-worldist ghetto and into the inner sanctums of the international economy: a "New Managerial Order"—a mix of self-interested pragmatism and naïve idealism, of reason and enthusiasm—made its entrance into business.

This turn was the product of a drastic change in perceptions and worldviews. A set of economic facts was now seen in a completely new light. The Iron Curtain was gone and interdependence grew apace. States had been at the center of debates about the North's responsibility for the South; though states still lived on, businesses inherited this call to act responsibly.

In 1984, the Union Carbide (UC) chemical company caused an accident in Bhopal, India. This human and environmental disaster spurred many people to ecological action and companies were now called on to account for their relations with the South. It is a sign of the times that some twenty years after the accident, negotiations between the company that has taken over UC and the local victims seem about to produce a result. Reparations are apparently to be paid to the injured and to the families of those who died as a result of the disaster. The criticism of these events is no longer the prerogative of revolutionaries, but has resonance with a wider public with less radical, more tentative political convictions. It has become part of the ordinary understanding of a democratic ethos.

The advanced thinkers of the economy were sensitive to this call. The category of "emerging markets" dates from the 1980s; it was invented by the World Bank and came into common parlance at the end of the decade. It is a term that punctuated discussion of the new areas of the South and East, and during subsequent years, these markets achieved exceptional levels of performance, particularly in stock market and financial terms. There was also a growing internationalization of businesses (figure 3.2), accompanied by increased investment toward the "emerging nations" of the South (table 3.2), Eastern Europe, and the Far East. These societies were often former colonies (in Latin America and in Asia) or nations freed from the yoke of dictatorship (Eastern European Communism).

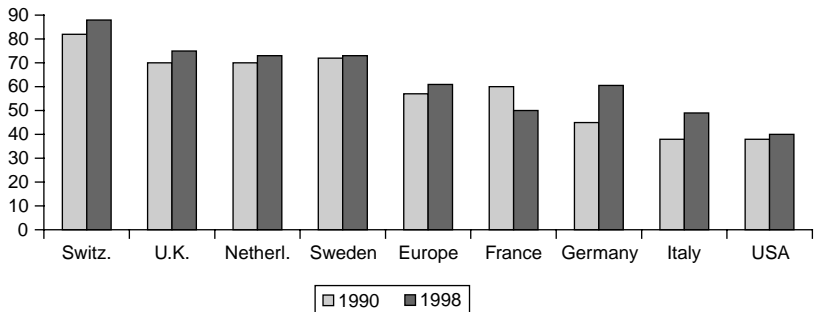
What did it mean for companies to trade with these regions? The category of emerging markets referred to countries that were set for

sustained development. Contrary to the term “developing countries,” the emphasis here was on the very great potential of an open economy based on liberal principles. This semantic invention was accompanied by a call for the moralization of this new free-trade space. The synthesis between the memory of colonization and the practical demands of globalization was taking shape. Companies from the northern countries had to respond to criteria of virtue; they appropriated the category of human rights for themselves.

Investment was all the more profitable for incorporating restraint in the name of this doctrine. The memory of historic injustices was superimposed here on the objective of performance. The product of this association of ideas, the demand for morality, was making headway. The social responsibility of the northern companies depended in part on the virtue of the markets they appropriated for themselves. The profession of transparency was born.<sup>33</sup>

**Table 3.2** Direct foreign investment (DFI) in emerging markets, 1990–2001 (in million dollars)<sup>34</sup>

	1990	1994	1998	2001
All emerging markets	19,715	83,050	153,963	151,024
Latin America	7,691	27,717	70,735	66,269
Asia	10,147	46,625	59,972	51,405
Central and Eastern Europe	940	6,192	20,658	24,869
Middle East and Africa	937	2,616	2,598	8,481



**Figure 3.2** Acceleration of the internationalization of multinationals (2000), rate of transnationalization.<sup>35</sup>

**Table 3.3** Transparency International's classification of countries on the basis of the corruption of their multinationals in emerging markets (Transparency International Bribe Payers Index)<sup>36</sup>

<i>Rank</i>	<i>Country</i>	<i>2002</i>	<i>1999</i>	<i>Ratification of the May 2002 OECD Corruption Convention</i>
1	Australia	8.5	8.1	Yes
2	Sweden	8.4	8.3	Yes
3	Switzerland	8.4	7.7	Yes
4	Austria	8.2	7.8	Yes
5	Canada	8.1	8.1	Yes
6	Holland	7.8	7.4	Yes
7	Belgium	7.8	6.8	Yes
8	UK	6.9	7.2	Yes
9	Singapore	6.3	5.7	No
10	Germany	6.3	6.2	Yes
11	Spain	5.8	5.3	Yes
12	France	5.5	5.2	Yes
13	USA	5.3	6.2	Yes
14	Japan	5.3	5.1	Yes
15	Malaysia	4.3	3.9	No
16	Hong Kong	4.3	n.d.	No
17	Italy	4.1	3.7	Yes
18	South Korea	3.9	3.4	Yes
19	Taiwan	3.8	3.5	No
20	China	3.5	3.1	No
21	Russia	3.2	n.d.	No
22	Domestic companies	1.9	n.d.	—

Transparency International asked 835 experts in 15 emerging countries to reply to the following question: In the business sectors with which you are most familiar, please indicate how likely companies from the following countries are to pay or offer bribes to win or retain business in this country? The scale runs from 0 to 10 (the highest score). The survey shows that the businesses in the countries concerned in the survey appear to tend to pay bribes higher than those paid by the multinationals (table 3.3).

### The Liberal Mobilization

Liberalism now believed in belief; production and finance had faith in fine sentiments. How did this change come about? It attests, first of all, to a distancing from the state focus of international relations. During the Cold War, criticisms of the multinationals were necessarily linked

to a protest against state imperialism. Marxist dependency theory was at its height. In denouncing the role of the multinationals in Latin America, the defenders of human rights were, in the last instance (the only instance), denouncing the American policy of support for dictatorial regimes (in Chile in particular). Domination, as they saw it, was structural. The market was only the varyingly effective veil drawn over a reality and politics of inequality and violence.

Other more sophisticated theories of interdependence governed this stance, which lay resolutely outside the system on account of the security imperatives of the East–West confrontation. Capitalism and the societies it governed, said the critics, were doomed; the logic of the accumulation of wealth was based on a suicidal investment in technology. By building factories and computers, Western man was moving away from nature; he was forgetting his authentic “Being.” Some even saw Western reason as the springboard that led to Hiroshima.

These structuralist, holistic philosophies—Marxist political economy, the Frankfurt School, or an environmentalism attached to *phusis*—now no longer seemed appropriate; at least we may say that recourse to them was abandoned by the new reformists of liberalism. These high priests of pragmatism made their entrance into post-bipolar civil societies and their cohorts gained new recruits. A substantial number of NGOs took the view that the fall of the Berlin Wall was a turning point that implied a new view of the world.

The humanitarians’ horizons of expectation had changed considerably. Studies assessed the opinions of the members of the main nongovernmental organizations and their opinions on the best attitude to adopt toward the multinationals.<sup>37</sup> The result of these is illuminating: bipolarity fostered an attitude of distrust and rejection toward those in global trade and management, whereas the fall of the Berlin Wall brought a thawing of this tension. This cooperative attitude toward business took a pragmatic reform of managerial activity as its aim. A reality principle came to prevail among a growing number of nongovernmental leaders, who wished to participate actively in steering the decisions of firms rather than to criticize them from the sidelines.

A number of major NGOs decided to specialize in the field of trade. They set up new research and action programs devoted specifically to the study of the multinationals and formed partnerships with big companies. The aim of these was both critical and cooperative (“proactive” in the fashionable language of the day). While continuing to perform their duty of informing the public, the nongovernmental agents sought to achieve reform and intervened within the internal workings of firms.

These NGOs gave advice to companies faced with humanitarian and environmental dilemmas. Amnesty International was doubtless one of the most interesting examples of this new orientation on the part of a generalist nongovernmental organization that had gained its reputation in exclusively political fields, such as the exposure of torture and opposition to the death penalty.<sup>38</sup> The move from defending political rights to an intervention in the field of economic entitlements was a bold undertaking. For every nongovernmental organization, it meant revising its structures and calling in experts; among other things, they had to take on volunteers and staff with experience in the economic and financial fields.

For the humanitarians, the gamble on social responsibility was fraught with consequences. It expressed a desire for—and the reality of—the professionalization of the nongovernmental sector. Some of their members acquired expert status, with questions as technical as the evaluation of the strategy of a multinational firm and its investment decisions in southern countries giving them the opportunity to do so. However, resistance on the part of other members of civil society, for example, of social movements such as Attac in France, reminded these strategists of moral evaluation that the risks of compromising with capital were great. The renown and reputation of nongovernmental organizations were at stake and their many detractors were not slow to lecture these newcomers to cooperation with the multinationals. For the guardians of the orthodoxy of critical intransigence, alliance with the forces of capitalism was a decision dictated by short-term self-interest and opportunism; from the standpoint of the progress of humanity, it was necessarily a trap.

For those who continued to favor frontal opposition to capitalism, morality was, nevertheless, a dangerous theme: their histories had given these movements little familiarity with this particular register. With the exception of a few writers,<sup>39</sup> Marxists did not engage on the terrain of morality and it was an area over which they had little mastery. The very conception of human rights was criticized by Marxist doctrine. The alterglobalist movements did not propose any economic reform of the business model and were incapable of passing a thoroughgoing moral judgment on its activities. Appeals to the public were generally made in the register of scandal; this was part of a common sense in which a quite traditional—and in many cases, dated—political program was dressed up. It is hardly surprising that certain research projects were abandoned, particularly within Attac, which chose not to continue with its studies on the multinationals.

Reputation is at the center of liberal society; it is a major issue both for NGOs and businesses. A number of management professionals, drawing in particular on the development of marketing, have formally assessed the potential effects of negative publicity.<sup>40</sup> At the theoretical level, their advances are very limited in scope. Nonetheless, these new voices have a symptomatic value. They indicate that a significant part of the business world is ready to accept social responsibility.

Liberalism is at the center of the world it has created. It incorporates into its tradition the criticisms leveled against it, drawing partners on to the terrain of its own reform. The image of the enemy is outmoded; cooperation is the order of the day. The choice between exclusionary opposition and cooperative partnership also fuels some important debates among the ethical funds managers. Should the bad human rights performers be excluded from the share portfolios or should one, rather, value the “progress” they have made at the margins by including their shares in the fund? Several fund managers, particularly when driven by a pastoral vision of olive branches and well-conceived self-interest, adopt the latter approach. Some managers decided to include Total in their funds on the grounds that the company had made progress in terms of transparency.<sup>41</sup> Outright opposition would merely reinforce the company’s indifference, they argued, whereas, with cooperation, its managers would likely take other considerations on board.

With some of its opponents becoming more flexible, there has been a greater openness to self-criticism within the business world and some of the past defensiveness has disappeared. Schumpeter’s myth of the “infallibility” of the entrepreneur has, for example, gone out of fashion. Some of the advanced thinkers of capitalism understand the advantages to be had from penitence.

## The Global Value of Exemplarity

### *Ethical Transatlantic Relations?*

Like any universalism, this virtue survives by its capacity to export its message. The Christian adage “Go ye therefore, and teach all nations” is (implicitly) their banner.<sup>42</sup> From the mid-1990s onward, the market promoted a new economic ethos that progressively gained adherents in countries of continental Europe that were not, on the face of it, particularly sensitive to the values of the puritan economy. In France, business ethics had traditionally been focused on the internal dimension of



wage relations. France had not called on a business ethics in its relations to its foreign partners. The 1990s brought a turnaround. Several scandals involving French companies broke out in the United States and French society showed itself receptive to these themes, which had quite a strong resonance in public debates on the economy.

The transatlantic dissemination of this ethics was founded, initially, on law. American courts found French firms guilty of legal and financial offences committed on American soil. This clash extended beyond commercial law. French companies were accused of human rights violations in courts in Manhattan and California. The Total company was the target of a class action in 1996 on the grounds of its relationship with the Burmese junta, together with the terms of employment of its employees in that country. It was accused of profiting from forced labor. A few years later, seven large French banks together with the SNCF railway company fell foul of a new trial in New York in respect of their role during the murky years of World War II.<sup>43</sup> More generally, all non-American companies were potentially targets for criticism and civil actions based on their failure to comply with ethical rules—actions that involved non-Americans as much as Americans.

The Sarbanes–Oxley Act (known colloquially as the Corporate Responsibility Act) was adopted in the United States in 2002. Moreover, the United States Securities and Exchange Commission (SEC) demanded that listed companies declare whether they had adopted an ethical charter. These arrangements were intended to punish offences against the rules of honesty in company reporting. Some American class actions against European or Asian companies were based on the Sarbanes–Oxley Act. Twenty-three actions were brought against non-American firms on this basis in 2002, fifteen in 2003 and in 2004 the 2002 record was expected to be broken.<sup>44</sup>

In the case of SNCF, as in that of Total, the French diplomatic service reacted sharply, denouncing the extraterritorial character of the jurisdiction and the interference in French affairs that the decision represented. Diplomats sent letters to the American courts in the form of *amicus curiae* briefs to draw the attention of the judicial authorities to the inappropriate character of the judgment. An American court could not, they said, judge a French company on its activities in a third country. This diplomatic act was also a political signal, intended to denounce the violation of French sovereignty by this form of judicial interference in its affairs. The request had a beneficial effect for Total, as the Californian court decided not to continue with the trial. By contrast, the judge in Manhattan did not give in to the French diplomats' protestations, nor did he yield to

the appeals for caution from U.S. diplomats. The dispute was to a large extent dissipated after negotiations between the United States and France and the creation of the Foundation for the Memory of the Shoah.<sup>45</sup>

The growing interdependence between economies and societies fostered the idea of social responsibility within the various European capitalisms. Where very many French companies are concerned, the United States is their biggest market.<sup>46</sup> These companies are sometimes involved in merger and acquisition operations with American ones and the shares held by foreign investors represent a growing portion of their capital. From the early 1990s, the conditions for importing the puritan ethic were met.

In the space of a few years, the economic virtue professions that emerged out of American puritanism made their appearance in Europe.<sup>47</sup> “Ethical officers” appeared in France, where they bore the name “*déontologues*.” Ethical business ratings agencies were operational from the mid-1990s onward. The most famous of them, ARESE, was founded in 1995. Its CEO had previously worked in California and she brought the methods and approaches of the American pension funds to France. Ratings of companies on the basis of their virtue (figure 3.3) were very soon offered both to companies themselves and to the banks (so that they could sell their clients irreproachable investment funds) and these served as references in the development of indices that went under the human rights banner.<sup>48</sup>

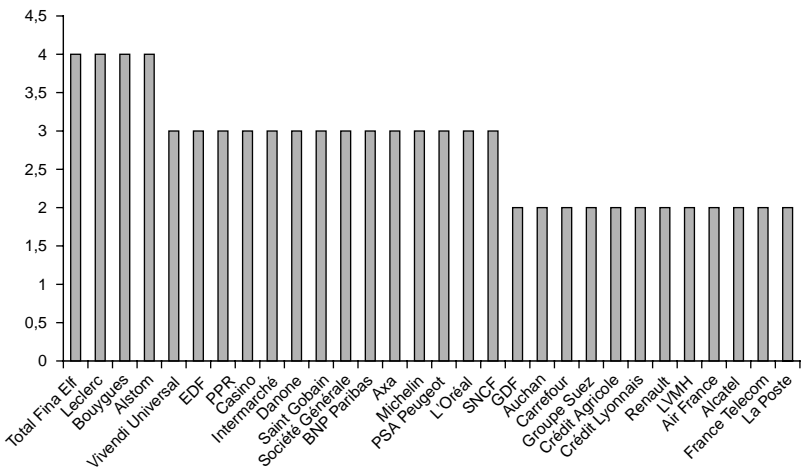


Figure 3.3 An index of ethical risk in France, from 0 to 5.<sup>49</sup>

In France, many consultation circles brought together fund managers, business ratings agencies using the ethical or human rights variable interchangeably, financial audit firms, NGOs, and banks.<sup>50</sup> Some business managers even greeted this merger between production, finance, humanitarianism, and advertising with a certain satisfaction.

The innovation was fraught with consequences at the political level. As a state, France felt itself a victim of arbitrary power: the “hyper-power” was acting hubristically. Such a conception was fueled by republican sovereignism, which took the view that if a French organization is harassed on foreign soil and judged by a law that is not that of the republic, then an offence has been done to the French body politic. Even more seriously, republican myths were in danger.

The situation was a paradoxical one. Through the market, French society was reinventing a new register of human rights which imperiled the republican sovereignty of the state that embodied the “Rights of Man and the Citizen.” Moral indictment in the name of human rights potentially went beyond the isolated cases dealt with by the courts of California and New York. France’s foreign policy was at stake, as was the decision of the French state to encourage its major companies to invest in countries where human rights were particularly badly flouted. American companies very often find it difficult to move into these countries on account of unilateral embargoes decreed by their government. In many, such as Cuba or Burma, French companies occupy strategic positions<sup>51</sup> and they also hope to maintain and strengthen their status in the Arab/Muslim world. This diplomatic option is in flagrant contradiction to the new market adaptations, with ethical rating and with the progressive definition of codes of conduct on the part of businesses.

In this quest for a model of justice that is in phase with the utilitarianism of the market, state logic loses out on two counts. The state gives ground where the prerogatives of its sovereignty are concerned and accepts an investigation of its economic operators that turns into a critique of its foreign policy. State logic is also undermined by private regulation, insofar as it imports the rules defining collective justice from the private sphere. The change came from within civil society and rebounded back on the government when the minister of the economy decided to give his backing to a law on New Economic Regulations in 2001 (law no. 2001-420 of May 15, 2001). This law required joint-stock companies to include environmental information in their annual reports. The regulation came about as a result of the government’s interest in *l’économie solidaire* and

ecological considerations: it was well received by the Ministry of the Economy, but aroused little enthusiasm within the Foreign Affairs Ministry. The French diplomatic service could not but be embarrassed by this market conversion and by the anticipation on the part of private actors of a set of new norms at odds with its practices and doctrine. At the end of the day, the country—and society—accepted that its market would effect a redefinition of human rights by way of ethics.

### *A Global Regime?*

The debate on social responsibility took place within the American state and at the United Nations. From 1995 onward, the Clinton government welcomed this approach in its “Model Business Principles” program. In the context of a Wilsonian revival, Clinton and his team were at pains to demonstrate their goodwill to the apostles of a new global justice. They pronounced themselves in favor of a mode of arbitration that suited America: regulation by the market. And indeed, in short order, class action lawsuits increased in number, affecting American oil companies such as Unocal in 1996 over its activities in Burma. Other major companies, such as Gap or Nike, were faced with ever more pressing demands from activists using their influence and resources on the campuses. These firms were forced to accept some of their critics’ admonitions and yield to the demands of the day over respect for the rights of foreign workers and, in particular, the banning of the use of child labor in Asia.

The Clinton government compromised skillfully in this field by encouraging American companies to put in place the necessary reforms that would exonerate them from potential criticisms. This encouragement of virtue had a twofold justification. It gave the appearance of breaking a potentially guilty link denounced by America’s adversaries during the Cold War: the collusion between a hegemonic state and its economic and cultural agents. To the great chagrin of the United States, such a view had developed in America’s closest periphery and had prepared the ground for various conspiracy theories. During the 1980s an American religious movement operating in Venezuela was directly accused of imperiling the sovereignty and security of that country. It had been suspected of espionage and of secretly working for a foreign multinational. Fundamentalist Protestant religious missionaries were identified as accomplices in this North American plot to take over the Amazon region.

Clinton's move swept these accusations aside. With it, America sidestepped criticisms that seemed now to belong to another age. The United States cast off the invidious role of the accused and took on the noble task of regulator. In launching this appeal to the market, the American state distanced itself from a regulatory power it had never actually possessed and pushed its liberal system down a path of self-assessment. This political decision was judiciously strategic, as it reinforced the role of American power in a field that was central to the new post-bipolar relations: the definition of rules and norms.

Clinton signed up to a cost-free commitment, such costs as there were being transferred to the market. America gained ground over its European competitors and, shortly afterward, the idea was taken on board by the UN. The UN's Global Compact in fact picked up on the pact the American president wished to see struck between his country's entrepreneurs and the consumers of the entire world. The supporters of this UN program were opting for a resolutely proactive, optimistic vision of virtuous globalization. The secretary general of the UN proclaimed the birth of the Global Compact at Davos in 1999.

This norms-based regime was a purely incentivizing construction. It was the UN's objective to reach the greatest possible number of companies in order to spread the good word by praising its new global contract. At the practical level, the plan was based on networks, directly reflecting the world of economic globalization. It was an expression of an analysis that emphasized the role of ideas in the definition of new international relations. This conception, very much in vogue in recent years, had been developed by a number of academics who had joined the United Nations as advisers.

From the Global Compact site ideas circulated like goods; their desirability depended on the expectations of those they were aimed at. If an individual anticipates a high level of demand for a product that is likely to interest him, then he has all the more incentive to buy an object that arouses so much covetousness. The Global Compact aimed to make human rights attractive. In formulating the project of governance, the UN leaders spared themselves a thankless task. They avoided adopting the pose of moral censor and dodged the potential criticisms to which such a role would necessarily have exposed them. They *suggested* virtue; rather than *imposing* it, they made it seem enviable. These bureaucrats delegated to the market the function of ascribing a meaning to the norm of social responsibility. They saved themselves needless severity by fostering the construction of autonomy by the market.

### The Re-Enchantment of the World

The appearance of moral accusation marks a turnaround in the history of capitalism. In its Weberian interpretation, capitalism has its origins in a Protestant matrix and Protestantism's ideas on saving and the positive attitude to nurture the development of a capitalist ethic. Calvinism leads to disenchantment<sup>52</sup>: Western societies leave the strictly supernatural dimension of religion and magic, and plunge into materiality and this-worldliness, where the capitalist must win his spurs and produce the signs of his predestination.

The market in virtue, multinationals observant of human rights, and ethical actions are paradoxical tokens of the development of economic reason. The outcome of this operation of the spirit of capitalism is out of step with the portrait of the disenchanted world painted by Weber. Quite to the contrary, indeed, the virtue market has produced a *re-enchantment* of the world. The operators of this process are the magi of technological and communicational reason. The virtue market has reintroduced belief into the very places from which it had been excluded, into the cold capitalism of the industrial revolution, opposition to Communism, and productivism. By denouncing the misdeeds of a cold, tentacular Golden Calf, the believers in ethical capitalism have an essential function: they are playing a part in a broad movement desirous of uniting a bourgeois, bohemian international society around beliefs intended to reform modernity through morality.

Such a phenomenon attests to a "transvaluation of values." The rationalization of the Western dynamic, as masterfully analyzed by Weber, leads to the reversal of its own history. The outcome of this dialectic is close to a Durkheimian conception of society: the social is founded on a reference to collective values that have forms of religiosity as their matrix.<sup>53</sup> At the international level, the "international civic religion" of virtuous capitalism is taken up by institutions such as the United Nations and by the members of some states. These institutions and their leaders understand the need to give a community basis to the society of states to which they aspire. However, the authority that would be able to embody this order lacks stable, credible foundations. Authority is less and less hierarchical and vertical; resorting to magic thus appears as a saving formula. International "society" needs a world "community." This is a community without God, excluding transcendence. It is based on a capitalist, democratic rationality, while at the same time having a cultural resonance, mobilizing belief and emotions.

What features do the magicians of this order of desire possess? It is a world peopled by leaders of a new age. It tends to be feminine, as is attested in France by such figures as Sister Nicole Reille or Geneviève Ferone, and these figures contrast with the generally masculine world of big business or consultancy circles. Where they belong to the secular world, the women are generally quite young; they have usually been educated abroad and have cosmopolitan teams around them.<sup>54</sup> Aware of the surprise effect that they can turn to their advantage, they play notably on the various facets of their attractiveness.

In the genesis of the international order, the notion of authority was always associated with male figures, who embodied the sense of the state. It is hardly surprising that men “filled” the professions that are most emblematic of international affairs, “the soldier and the diplomat,” to borrow the categories proposed by Raymond Aron. The same is true of the “industrialist and the banker.” Ethical magic breaks with this order. It presupposes a “feminine spirit” defying the traditional world order.<sup>55</sup> The civic religion of a critique of decision-making shakes international power-centers to their foundations: in praising post-materialism, it points up the weaknesses of the authority principle.<sup>56</sup>

As part of this turnabout, the critique embodied in embargoes is exemplary. The economic sanctions that are part of the measures of stigmatization and coercion toward states that violate certain rights, form a pendant to the admonitions directed at the multinationals. In many respects, embargoes are both the basis and the continuation of private campaigns carried out against business concerns. What is the meaning of this other critique in the name of a virtue outraged by deviant states? And what are its consequences for an applied morality?

## CHAPTER FOUR

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### *What Justice for Economic Sanctions?*

It is better to conquere the enemie with famine, then with yron: in the victorie of which, fortune maie doe much more then valiantnesse.

—Machiavelli, *The Art of Warre*, p. 223

Apply this economic, peaceful, silent, deadly remedy and there will be no need for force

—Thomas Woodrow Wilson, 1919

This is a very hard choice, but ... we think the price is worth it.

—Madeleine Albright, when questioned on May 12, 1996 about the Iraq embargo and its humanitarian consequences

Post-Cold War international relations bear the mark—some might say the stigmata—of economic sanctions. From the outset, these measures appear in a favorable light, since they are perceived as a sensible alternative to war. The reason for this implicit consensus is simple: depriving people of trade seems more humane than dropping bombs. It is a positive move to outlaw the deviant from the comity of nations, rather than commit an act of aggression; it is a virtuous act, which reinforces international law. Idealism here provides the proof that its voice is enforceable in law.

The multilateral sanctions decreed by the Security Council, like the unilateral embargoes proclaimed by America, represent a moral appeal that also has coercive powers. However, from the mid-1990s onward, the Western public became aware of a number of harmful consequences



of their use. From that point on, sanctions came in for wide-ranging criticism. What, then, is to be learned from this dialogue between the sanctioner and his critics?

### The Long History of Economic Sanctions

The history of the economic weapon is marked by five major moments and divides into two phases. Thucydides, the first historian and theorist of international relations, mentions the use of sanctions in his account of the Peloponnesian War. Athens decided to blockade the ports of Attica against trade with Megara, the ally of its enemy Corinth.<sup>1</sup> Economic sanctions are, then, one of the elements of a war-fighting strategy. They are most often combined with the deployment of physical violence against an army. The continental blockade mounted by Napoleon against Britain reflects this approach. Sanctions would not exist without the armies that enforce them; they add to the pressure exerted on a country that is also subject to the rigors of battle.

A major change occurred in the early twentieth century when sanctions lost their association with warfare. The aim now was to substitute them for military action. President Thomas Woodrow Wilson, the founding father of American idealism, was their chief advocate.<sup>2</sup> Exploiting the workings of the modern economy, he made the connection, both theoretically and practically, between a Puritan morality and an idealist international law. It was legitimate to punish a nation the way a guilty individual—or, rather, a child—is punished. This mode of judgment provided the foundation for a political theology of international affairs. The embargo was a political weapon; sanctions would be used as a moral policy.

The doctrine of sanctions is part of the “just war” tradition. Let us remember that for the founding fathers of the Christian just war doctrine, SS. Augustine<sup>3</sup> and Thomas Aquinas,<sup>4</sup> just war is a punitive war. It is motivated by legitimate self-defense and the unjust enemy is regarded as a sinner. In the sanctions régime, the “target” is punished for the danger it represents and in a manner commensurate with the crimes already attributed to it (in the context of war or where leaders of that state have committed crimes against humanity).

The end of the Cold War left its mark on the history of sanctions. The multilateral and unilateral measures imposed on South Africa became an ethical, legal, and political model for embargoes. The growing unpopularity of Apartheid lent legitimacy to the use of the economic

weapon against the South African state and the embargo is seen as one of the factors explaining the fall of Apartheid. Moreover, in imposing it, the UN was living up to its own principles and the American state was listening to the voices of African Americans and members of its own civil society. Lastly, legitimate representatives of South African society—the opponents of Apartheid—expressed approval for the policy by giving their consent.

The 1990s brought to light a new aspect of sanctions that had a direct influence on how they are regarded. Iraq, the main rebel against the new American order, was the target of sanctions: its history provides the most tragic episode in the history of embargoes.

### **Why was there a Recourse to Embargoes after the Cold War?**

The countries targeted by sanctions imposed by the United Nations over forty-five years of the Cold War include South Africa and Rhodesia. The countries targeted by sanctions imposed by the United Nations since 1990<sup>5</sup> include the following: Afghanistan, Angola, Eritrea, Ethiopia, Haiti, Iraq, Liberia, Libya, Rwanda, Sierra Leone, Somalia, Sudan, and the former Yugoslavia.

The repeated recourse to economic measures of this kind is due to the freeing-up of the Security Council after the end of the Cold War and the new vision of international relations that came to prevail once the Berlin Wall came down. The main features of this new approach are criticism of the humanitarian effects of warfare, together with an extolling of the merits of law, and the revival of Wilsonianism.

The 1990s were also a favorable time for the reemergence of Wilsonianism in American foreign policy. The U.S. Congress played an increasingly significant role in this area. Votes in the House and the Senate dictated American foreign policy to a great degree; the legislative was opposed to President Clinton and sanctions were a source of major tensions between these two branches of government. At the beginning of his second mandate, Clinton railed against this parliamentary and juridical abuse, which partially deprived him of his foreign policy prerogatives. To indicate his discomfiture, he denounced the “madness” of the immoderate use of economic punishment (table 4.1), which rather than causing its targets to knuckle under, merely bogged down the American state in an incoherent policy. The embargoes were the product of an emotional determination of interests and, in particular, of the

**Table 4.1** The countries targeted by unilateral sanctions imposed by the United States in 2002<sup>6</sup>


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Afghanistan	Libya
Algeria	Maldives
Angola	Mauritania
Armenia	Mexico
Azerbaijan	Moldova
Bahrain	Morocco
Bangladesh	Nigeria
Belarus	North Korea
Belize	Oman
Bosnia and Herzegovina	Pakistan
Burma	Panama
Burundi	Paraguay
Cambodia	Peru
Canada	Qatar
China	Romania
Colombia	Russia
Congo	Rwanda
Costa Rica	Saudi Arabia
Cuba	Sri Lanka
Djibouti	Sudan
Egypt	Syria
Gambia	Taiwan
Georgia	Tajikistan
Guatemala	Tanzania
Guinea-Bissau	Thailand
Haiti	Tunisia
Honduras	Turkmenistan
Indonesia	Uganda
Iran	Ukraine
Iraq	United Arab
Italy	Emirates
Ivory Coast	Uzbekistan
Japan	Vanuata
Jordan	Venezuela
Kazakhstan	Vietnam
Kuwait	Yemen
Kyrgyzstan	Yugoslavia,
Laos	Federal Republic of
Lebanon	(Serbia and Montenegro)
Liberia	Zimbabwe

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impact of communal groups and humanitarian lobbies on votes in the Congress. Restrictions on trade with Cuba were firmed up on two occasions: in 1992 by the Torricelli Act and in 1996 by the Helms-Burton Act, measures designed by anti-Castro Cuban Americans.

Sanctions against Burma, particularly when enacted at the local level in Massachusetts, were initiated by universities, campus activists, and NGOs. A law on religious liberty was promulgated, which sought to punish those countries where freedom of worship was not respected. Protestant fundamentalist movements were behind this measure, which was a reaction to problems encountered by their proselytizing missionaries in the Arab/Muslim world. This latter example highlights a paradox and a contradiction within political liberalism: toleration's lack of tolerance.

### Moral and Political Expectations

This liberation of a previously inhibited criticism was the reflection of a profound change in the relations between states. It set the seal on the division of the world into partners and pariahs. It also confirmed the individual determination of interests in relations between governments and private actors. Many NGOs and communities invoked human rights and called for sanctions to impose respect for them. They called to order the states capable of inflicting punishment on all who harmed their interests or offended against their values. Indifference to injustice was increasingly unjustifiable.

These calls to respect human rights predate the end of the Cold War and have not changed much in their general orientation since 1989. On the other hand, the individuals who speak in the name of these rights have never been so free to express their wishes. Never have they had such scope for maneuver. And never have their calls been so widely echoed, both by a public avid for morality and by governments learning to talk the language of human rights.

Sanctions were seen as having an essential value: they were associated with a middle course, a third way that transcends the alternative between armed intervention and the apathy of an implicit consent. Human rights activists call on states to act, while at the same time lambasting the indifference of the "cold monsters." Their rhetoric is now familiar. States are criticized for their lack of humanity and an obligatory analogy with Munich sees any failure to intervene against barbarism denounced as cowardice. Economic sanctions are the product of a surprising alliance, the fruit of a marriage both unnatural and pragmatic between the virtue of human rights and the calculations of strategists. A consensus of a new type is taking shape, breaking down the barrier of the irreconcilable differences between the

selfish strategy of the cold monsters and the irenic aspirations of the idealists.

### Questionable Experiences

The enthusiasm for sanctions is based on a naïve confidence in an international technique of punishment, even though the history of the “economic weapon” clearly attests to its limitations. Admittedly, when they were used against Yugoslavia in 1921 or against Greece in 1925, embargoes enabled the League of Nations to attain some of its objectives. The success of these sanctions can be explained by the size of the target country and the crushing superiority of the sanctioner over the community on which it was seeking to impose its rule. By contrast, the sanctions adopted against Italy in 1935, when it invaded Abyssinia, were a failure. The fascist regime did not yield to measures that had no great impact on its economy. The League of Nations lacked firmness in the face of a target country with a powerful ally, even though the sanctioner feared escalation of the war. When the sanctioner is not confronted with an opponent of dwarfish stature, it is inevitably discomfited by its target.

The decision to penalize a collective rests on a bold presupposition. What is assumed is the efficacy of such a measure, its capacity to modify the behavior of the target—in the event, the regime’s decision-makers, who are contravening the legal rules defined by the sanctioner. Yet, contrary to what is implied in the Wilsonian adage, the decision to impose sanctions on a state depends on a blind gamble. The UN bureaucrats knew this in 1991; their experience of the cold war with Rhodesia was there to remind them of it. The sanctions decreed against that country in 1967 set embargo policies back severely. In that case, the punishment had major counterproductive effects, and even strengthened the government’s hand as a result of the population rallying around the leader, united in its resistance to an external threat. Galtung’s well-known argument<sup>7</sup> has been taken up in the analysis of many other embargoes and applies also to unilateral sanctions, as in the case of Cuba. As critics of American policy toward Cuba invariably emphasize, Fidel Castro’s charisma was enhanced by the face-off with American power. Economic punishment gave the Cuban dictator an opportunity to convince his people of the need to resist the perverse hegemony of its neighbor.

The South African experience is trickier to interpret. Admittedly, the *apartheid* regime did give way. Yet can we attribute the reform of that regime to the 1976 embargo, given that it occurred long after the United Nations' first decision to oppose South Africa's institutionalized racism? Despite, or rather because of, the embargo, South Africa developed a policy oriented toward self-sufficiency and found some loyal trading partners. Nevertheless, the embargo had an effect: it sent out a signal to the white elites and, for as long as it was in existence, reminded them that its removal depended on their decision to reform their political system. The vice subsequently tightened once American sanctions had been voted by the Congress in 1986, aided by pressure from African American movements. The impact of these was more direct. Many American companies left the country and the pressure on the De Klerk government increased. This decision positively influenced the decision to release Nelson Mandela.

### The Risky Calculation of Embargoes

The puzzle any embargo represents has one major uncertainty in it. The sanctioner cannot in any way predict the capacity of the target country's population to resist the restrictions placed upon it. The sanctioner evaluates the resources the target country will be deprived of, but it is difficult to anticipate the strategies that will be employed to evade sanctions. He is incapable of estimating in advance the volume of illicit trade that will offset the shortfalls of the official economy. He does not know what the society's reactions will be to the privations resulting from the embargo, nor does he know its capacity to endure sacrifice. The resistance of the pariah state depends on another random variable: the sensitivity of the leaders when directly confronted with the suffering of their population.

Sanctioners must also take account of the economic consequences of their actions among their partners. Excluding the pariah from the international game, when, for example, we are speaking of oil nations such as Iraq or Libya, has repercussions on their partners' economic policy. Sanctioners run the risk of disrupting the terms of international trade. They are also likely to incur the displeasure of their multinationals, and this is not even to mention the efforts they have to make to ensure the new provisions are respected, in order to avoid some companies "going it alone."<sup>8</sup>

Sanctions also have a social cost: sanctioners have to be able to justify their intransigence. During the 1990s, the United States kept up incessant pressure on its allies to maintain the UN embargo on Iraq. The strategy of the target country was directed toward increasing the social cost of doing so and the Iraqi regime attempted to find economic and political support to bolster its criticism of American severity.

In the Wilsonian liturgy, embargoes are embodiments of a *conversion theology*. At the heart of the sanctioner's intentions lies this will to reform the miscreant, to transform the target's deviant behavior by punishment. This approach expresses a desire for control, which assumes a causal link that is not demonstrable a priori: the relationship between punishment and the reform of the entity punished. Such a change is even more hypothetical in that it presupposes behavioral modification at the collective level. Despite these uncertainties, sanctioners would seem not to have to give reasons for their policy. It would seem to enjoy a transcendent legitimacy: the mission to save an international community in harmony with democracy.

### Expertise

Neo-Wilsonianism very soon came up against a skeptical front. The efficacy of embargoes was increasingly called into question. After the Gulf War, pressure was maintained on Iraq by strict control measures preventing it from selling its oil, but the effects of that decision on Saddam Hussein's policies were not clear. In the early 1990s the embargo against Yugoslavia helped to foster the criminalization of that country's economy. In no way was Milosevic's power affected by the restrictions imposed on the official economy.

These failures or difficulties in clearly establishing the positive results of sanctions policy were a spur to systematic research in the field. Given the uncertainty of governments, scholarship and its representatives attempted to provide ways around the real-world obstacles encountered. Expertise where sanctions were concerned pushed beyond disciplinary boundaries—political science, economics, humanitarian medicine—and beyond questions of status. Often as rivals, though not hostile ones, academics now found themselves up against think-tank advisers and journalists.

The effectiveness of embargoes was analyzed in a growing number of publications. Every institution wishing to display expertise in international affairs produced a study evaluating UN sanctions.<sup>9</sup> The conclusion

was that embargoes were often ineffective when compared with the noble objectives proclaimed, their failure rate being greater than 50 percent.<sup>10</sup> Where the research centers were private and American, they also put their energies into studying unilateral sanctions.<sup>11</sup>

Each side in the argument found something to bolster its cause, from the advocates of Neo-Wilsonian intransigence to their fiercest detractors. Each brought its expertise to bear and refined its positions. Evaluation of the outcome of sanctions gave rise to many a controversy. In some cases, such as Iraq, major polemics ensued, involving necessarily subjective viewpoints. In a debate of this kind, the advocates and opponents of collective punishment needed convincing evidence to justify their convictions.

This era of consultancy sounded the death-knell of Wilsonian certainty, but did not kill off the aspiration to virtue with which it was infused. Being required to respond to requests to justify themselves, the embargoes were hoist by their own petard. The sanctioner had to account for his severity. The United States and the UN preempted this criticism, calling in increasingly well-informed humanitarian experts to forearm themselves effectively and professionally against their critics. The opponents of unilateral embargoes were not to be outdone. The most systematic empirical critique of sanctions came from American business circles, eager to prove the harmful character of the unilateral sanctions decreed by their country. They concentrated mainly on economic aspects, with several entrepreneurs subsidizing an intense activity situated somewhere between research, press campaigns, and lobbying.

### **The Moral Evaluation of Embargoes**

What proposals can be developed for creating an ethics of sanctions? Several possibilities are under consideration. Some projects are utopian; as is the case, in particular, with an a priori ethics of embargoes, which would potentially lead to contradictory results. The radical critique of sanctions could be based on the following argument: an act cannot be moral, according to Kantian principles, if it uses human beings as means to achieve an end. Conversely, on the basis of a philosophy of principles, it is equally rational to justify an intransigent use of cosmopolitan international law. In penalizing a criminal state, the "international community" marks out as a pariah a community whose leader has cut himself off from humanity. This principle could be turned into a universal one along the same lines as the categorical imperative.



This absolutism has one other major failing: it is impossible to take account of the various different contexts with which the sanctioner is faced. The presumed and actual consequences of the embargo are crucial variables that no judgment of the morally appropriate character of such a policy can ignore.

The starting point for an adequate morality involves minimum recommendations of principle, followed by a detailed study of the presumed and actual consequences of the sanctions. The decision to enforce an embargo arises out of cases in which massive violations of human rights have been recorded or in which states can be shown to pose a danger to international security and might, by that token, violate those rights. The application of this initial principle presupposes an analysis of the consequences of the punitive decision. Is it right to decree sanctions that make a community suffer in order to preserve the conditions of life for a minority when the outcome of such a measure is uncertain? The decision to impose sanctions should not be the product of a choice between taking up arms or resorting to law. Embargoes must not be decided by default. Sanctions meet precise needs in specific cases. They are to be used when the conditions for their success are satisfied.<sup>12</sup>

When the evaluation process comes to the analysis of the supposed consequences of sanctions, it is consequentialist and utilitarian in character. Looking back at Wilsonian reasoning and its approach to the costs and benefits of resorting to "the economic weapon," we can see here a misuse of applied utilitarianism to justify intransigent idealism. The errors of this approach are responsible in many ways for the failures of embargoes and have, as such, given rise to a productive critique of sanctions policy.

The punishment of sinners is supposed by Wilson to be effective: painless for the sanctioner, but involving terrible costs for the target. This is a calculus that involves some very worrying assumptions. Wilson asserts the virtue *per se* of a lethal punishment. The principles on which he bases his argument are not adequate; they are outside the framework of the rules governing international affairs. They assume the "reality of evil" without actually making its definition explicit, and introduce an unknown into the evaluation of the economic weapon.

The Wilsonian calculus is a short-sighted one. If one is looking at the relation between costs and benefits, it is essential to know the different subjective views of sacrifice and privation, and of political benefit. The relation to suffering is something that is necessarily contextualized. There cannot, as a result, be any absolute justification of sanctions; it depends largely on the context in which these measures are used.

What are the various problems and dilemmas a state or international organization is likely to face today? Let us consider the humanitarian burden the target country must bear when sanctions are imposed on it, as well as a benefit (anticipated or real) in the form of the political victory of the sanctioner whose aims are achieved through the application of the embargo. If there is a cost, but no benefit, then the dilemma is quickly resolved: sanctions are to be condemned morally when they are politically ineffective and costly on the humanitarian level. To proceed with sanctions in this situation would be an act of sadism.

A second example turns out to be more complex. What is to be the decision when (potentially) effective sanctions have a (potentially) high humanitarian cost? It is necessary to arrive at a full understanding of the nature of the possible political benefit and, particularly, of the threshold beyond which this benefit corresponds to the sanctioner's expectations. Another evaluation is even trickier. What is the acceptable degree of suffering for the society bearing the humanitarian and social costs of the sanctions? This variable relates to a moral sense that depends on the degree of sensitivity to pain and the spectacle of pain on the part of both the target and the sanctioner.

Another determination has to be made here. This relates more particularly to unilateral sanctions in the case where a nation, most often in actuality the United States, prevents itself from trading with a pariah state while its competitors carry on commerce with the sanctioned state: the United States does not trade with Cuba, whereas Europeans are developing their commerce with the island in the absence of the potential market leaders.<sup>13</sup> What is the price of the sanctioner's virtue? Does its disinterestedness serve a useful purpose?

### Imaginative Critical Reason?

Medicine and economics provide critics of government-imposed sanctions with their first weapons. Economic sanctions are analyzed in terms of their humanitarian consequences for the target country and their economic effects on both the target and the sanctioner. This approach undermines Wilsonian certainties. Is a better world imaginable in the absence of sanctions? In an alternative world, what would the "natural" development of a pariah state have been, had it not been prevented from trading with its external environment? What would be the consequences for other states of such a refusal to impose sanctions?

This critique is fueled by cases where a nation's development is impeded in both economic and demographic terms. The indictment has deadly overtones, since it counts up the deaths for which the sanctioner is indirectly responsible. Running beneath the surface of such an ethics of sanctions, which takes the form of a Christian criticism of a sin imputed to the state, is the implicit metaphor of abortion.

The Vatican's position, as expressed by John Paul II, puts this condemnation, which is fueled also by an aspect of just war doctrine, in the clearest terms:

In today's interdependent world, a whole network of exchanges is forcing nations to live together, whether they like it or not. But there is a need to pass from simply living together to partnership. Isolation is no longer appropriate. The embargo in particular, clearly defined by law, is an instrument that needs to be used with great discernment, and it must be subjected to strict legal and ethical criteria. It is a means of exerting pressure on governments which have violated the international code of good conduct and of causing them to reconsider their choices. But in a sense it is also an act of force and, as certain cases of the present moment demonstrate, it inflicts grave hardships upon the people of the countries at which it is aimed . . . Before imposing such measures, it is always imperative to foresee the humanitarian consequences of sanctions, without failing to respect the just proportion that such measures should have in relation to the very evil which they are meant to remedy.<sup>14</sup>

Leniency and self-control stand opposed to intransigence.

Two kinds of embargo, the one unilateral, the other multilateral, have given rise to severe attacks on the major failings of an unbridled sanctions policy. These critiques have to be evaluated on the basis of ethical reason and they must also be tested against their own implicit criteria.

### *The Embargo against Cuba*

Is the target country able to provide proof of wrongdoing on the part of the sanctioner? A complaint lodged in a Havana court in 2000 led to a trial that attracted sympathy from Fidel Castro's defenders. The Cubans were claiming 121 billion dollars from the American state for the embargo imposed on the island over four decades.<sup>15</sup> This sum was

said to represent the cost unjustly borne by them as a result of being unable to trade with the United States. Being prevented from engaging in commerce with its most direct neighbor, the revolutionary state had to get its supplies from other, more distant countries.

A trial of this kind had an exclusively political function: it was a response to the reinforcement of the embargo at the behest of the Florida-based Cuban Americans and its aim was to highlight the inconsistencies in American policy. After the end of the Cold War, American national interest was no longer a valid justification for pursuing a policy of embargo. The Pentagon officially recognized in 1998 that the island no longer presented a threat to the security of America. The sanctioner found himself in difficulty, at the very point when a growing number of organizations were making their voices heard and agitating for the repeal of a measure that had had its day. Even within the State Department, many diplomats went over to their position. In the Congress, representatives and senators were pressured by their electors, particularly certain businessmen who wanted to trade with the island. President Clinton wished to put an end to this intransigent policy. Preoccupied with how history would judge him, he was keen to make a historic gesture, to break with four decades of isolation that had never seemed so unjustifiable. He was prevented from doing so by a vote in the Congress.

The Cubans were responding to American unreasonableness and resorted to their legal system to register a protest. Such a criticism amounts to a settling of old scores; its aim was to denounce the deleterious role of Cuban Americans in U.S. politics. By defying the hegemonic order, its function was to win more support for the cause of the revolution, both internally and internationally, by making use of active or passive Castro sympathizers throughout the world.

The Cuban claim is a reflection of the age, with its string of complaints on the basis of what *ought to have* happened. The sum demanded by the Havana court was a response to an expectation—compensation for the economic fetters arbitrarily imposed by the United States on the Cuban revolutionary regime since 1960. Such a demand assumed that the island would have developed more positively but for punishment by America.

It was a deliberately unrealistic demand; it is also a debatable one. First, for thirty years or more Cuba benefited, because of the embargo, from substantial Soviet aid that was essential to the financing of its command economy. The embargo structured the way the Cuban economy developed. Around it, Castro developed his economic policy,

his relations with his people, and his international relations. In other words, opposition to the United States enabled Cuba to obtain funds that set the seal on its membership of the Soviet camp.

Furthermore, if the embargo had not been applied by the United States and if American companies had been free to trade with the island, those companies would have had powerful effects on the Cuban economy and society. The functionalist thesis that Castro might have approved or accepted an embargo against Cuba cannot be ruled out. The arrival of American companies on the island would have brought about some noteworthy changes in power relations within Cuban society and the regime would not have been able to preserve its grip on the economy. Even more seriously for Castro, the strength of American capitalism would undoubtedly have had disruptive effects on Cubans' allegiance to their regime. When all is said and done, if the embargo had not been applied by the Americans, it is not certain the Havana regime would have survived. As a result, the regime claiming compensation is potentially different from the one that would have existed had there been no embargo. It is not possible to compare two radically incompatible trajectories with one another. By modifying one of the occurrences of real history—here the embargo on Cuba—the entire course of the island's destiny is modified to the point where it is no longer possible to compare the virtual development with the history that actually happened.<sup>16</sup>

### *The Unilateral Error*

The most valid criticisms of American sanctions on Cuba have been formulated by Americans on the basis of their own interests. After two crucial laws were passed in 1996—the Helms–Burton Act and the Iran and Libya Sanctions Act (ILSA)—business circles reacted vehemently to Congress imposing control on trade by American companies. Those companies were aware of the harm they were suffering at a time when Cuba was changing its economic rules to bring in a constantly growing number of European firms, mainly in the sectors of tourism, mining, and telecom. Having decided to put an end to a policy they regarded as irresponsible, American employers' organizations, such as the National Association of Manufacturers and "USA Engage," threw themselves into this campaign and put together a coalition of forces to support their cause.<sup>17</sup>

The partnership in question was an unusual one. Business circles came together with a number of humanitarian organizations and churches to denounce the harm done by unilateral sanctions. There

were two strands to their protest. First, through the media, the NGOs and charities sensitized the American population to the harmful consequences for the countries targeted by American sanctions. This protest was based on analyses of the testimony of doctors and humanitarian aid workers reporting the shortage of medicines suffered by the civilian population. In the Cuban case, a study was carried out by the American Association for World Health: it identified certain products, most notably spare parts for machines used in the fight against cancer, that Cuba was unable to obtain as a result of the embargo.

Despite American restrictions, the situation of the island was, however, relatively good as far as medical treatment was concerned. In fact, as the various indicators show, health conditions are much better in Cuba than in the other countries of Latin America. In some cases, they are even more satisfactory than in many districts in American cities.

The humanitarian indictment of Cuban sanctions thus turned out to be a delicate matter. The protest against unilateral sanctions did, however, benefit from the initial findings from surveys of Iraq. The notion of embargo became synonymous with disaster, and activists managed to link the idea of unilateral sanctions with UN sanctions.

In a second phase, the mobilization against unilateral sanctions concentrated on the economic effects of embargoes. It took the course of studying their impact on the American economy. Sanctions, it found, hampered the progress of companies in their international activities. They favored the United States' competitors, particularly those from Europe or Japan. At the request of the American employers, the Institute for International Economics, which had already made a detailed study of the effects of sanctions on the countries targeted, quantitatively evaluated the damage suffered by the sanctioner. The economists of this "think tank" aggregated the losses to American companies in the various markets in which they were no longer able to trade. It emerged that the virtual loss involved amounted to an annual sum ranging between fifteen and nineteen billion dollars.<sup>18</sup>

The campaign against unilateral sanctions was based on the initial effect of the emotion generated by the suffering of civilians in the target country and on a second driver, the basis of which was an interest-based morality. This second line of reasoning depended on a logic that was difficult to controvert. Unilateral sanctions are not justified by a national interest and they are of very limited effectiveness, inasmuch as the target country can find its supplies from other states. Improved trading relations between Cuba and the states of the European Union or Canada and Mexico are evidence of this.

The moral critique by the American entrepreneurs rests on a utilitarian schema and a virtual history of the economy. Starting out from private interests, that critique bestows a moral scope on the economy and transforms the microeconomics of sanctions into a collective morality. The losses caused by sanctions are said to have repercussions on employment. According to the Institute for International Economics' assessment, this equates to a loss for the American economy of two hundred thousand jobs. Not only do sanctions serve no political purpose, but they involve a cost to the national economy and the whole of American society.

This historical reconstruction does not, on the face of it, suffer from the main contradictions that normally beset this kind of argument.<sup>19</sup> In the absence of sanctions, the economic and political situation would not have changed radically; what change there was would have been marginal in the life of the United States, both economically and politically. Congress would not have given in to pressure for sanctions and such a decision would not have brought any major consequences for the course of American history.

This accusation created a situation of cognitive dissonance. How could a state be favorable to the impoverishment of its economy? A state decision that causes a disutility opens that state up to a charge of absurdity. This utilitarianism marks a victory of economics as "moral science." The same approach was continued in a critique of the flawed foundations of the American system for representing interests. In a number of cases, economic sanctions—particularly the embargo on Cuba—were put in place to satisfy demands from certain ethnic lobbies. The market and its entrepreneurs speak, by contrast, in the name of the general interest against individual interests; they become the mouthpieces of moral and political virtue.

### *The Multilateral Disaster*

Multilateral embargoes are potentially much more coercive than unilateral sanctions. The 1990s saw the kind of disaster a general, multilateral sanctions policy is liable to generate.<sup>20</sup> The political, humanitarian, and moral effects of the embargo on Iraq were very negative. Above and beyond this general judgment, the detailed interpretation of these effects still remains open to debate.

The decision to subject Iraq to a harsh sanctions regime posed a genuine dilemma and gave rise to some very polemical discussions.

After six years of privation for the Iraqi population, these concerns became part of the public debate. In taking the view that the humanitarian damage done by the embargo was the "price" that had to be paid, as Madeleine Albright declared in 1996, imperial multilateralism left itself open (quite rightly) to serious criticism. Albright's phrase became the rallying point for the moral campaign against embargoes.

Her reply revealed the full extent of the problem abruptly and provocatively. Unlike Cuba, the Iraqi regime presented a threat both to its own population and to the middle eastern region and hence to international security. Evidence of that threat was provided when, in 1986, Saddam Hussein committed a genocidal act against the Kurdish population living in Iraq, again when he invaded Kuwait in 1990 and, finally, when he launched Scud missiles against Israel during the 1991 Gulf War. After that conflict, his reluctance to allow inspectors to view Iraqi installations aroused American distrust regarding the warlike intentions of the dictatorial Baghdad government.

There were two opposing interpretations of the application of the embargo against Iraq. On the one hand, it was argued that, without an embargo, the Iraqi regime would have been able to start new conflicts and do irreparable harm to international security. The second interpretation stressed the possibility of a world without an embargo on Iraq, in which the Iraqi population would not have met with the disaster that has befallen it and the Iraq government would not necessarily have adopted a bellicose policy. The most radical critics called for the embargo to be lifted unconditionally, on account of its humanitarian consequences. Generally, it was argued, the damage Iraq could do to its enemies fell far short of the suffering endured by its own population. Both these interpretations resorted to arguments from virtual history. Choosing between these two courses of action involves the application of the principle of responsibility and precaution. Toward whom should this principle be applied?

### The Sharing of Responsibility?

Did the maintenance of the embargo lead to the Iraqi population being sacrificed by the West, as the most radical critics of the UN decision proclaim? The UN certainly was aware of the humanitarian ravages caused by the embargo, its Baghdad office warning them of it at quite an early stage. From the very first year of the application of sanctions,



the UN proposed that the stress be reduced by way of a program that was the precursor to the "Oil for Food" initiative. This suggestion met with Saddam Hussein's disfavor, on the grounds that it violated his sovereignty. The Security Council washed its hands of responsibility for the damage caused by the sanctions, arguing that what was happening to Iraq's population was a consequence of Saddam Hussein's rejection of their offer. The confrontation of these two logics produced disastrous effects. Saddam held his population hostage in the name of the sovereignty of his dictatorship, while the UN had justification for its decision not to give ground.

The Oil for Food agreement between the UN and Iraq was struck in 1996. It came into force a year later and permitted the Iraqi regime to sell part of its oil within limits set by the UN. Part of the income from those sales—30 percent—went on the payment of reparations due as a result of the invasion of Kuwait. The rest was supposed to be employed to feed the Iraqi population. The UN also controlled Iraqi imports, establishing a long list of products that could not be exported to that country on account of their potential military use.

There were two divergent assessments of the Western position. The first interpretation denounced the perversity of the UN. It advanced the Iraqi "genocide" thesis, seeing sanctions as just one of the means available to Western power to perpetrate this crime against humanity.<sup>21</sup> The first stumbling block for the proponents of this theory is that of intention. Short of seriously envisaging a hypothesis of "collective madness" and perverse, incoherent intentions, the argument is misconceived from the outset; the humanitarian effects of sanctions that might derive from a direct intention to harm run counter to all Western interests in the region.

The second difficulty posed by the genocide theory relates to the nature of causality. What is the direct link between the embargo and increased mortality in Iraq? Here the question is much more open to debate. As in the Cuban case, medical researchers carried out surveys in order to denounce infant mortality rates during the period when sanctions were in place. The results of these studies are alarming, as is attested by the Garfield Report, though that is one of the more neutral assessments. Mortality among children under five increased exponentially from the point the sanctions were implemented (table 4.2). If Iraq had not been subject to the UN embargo, two hundred and twenty-seven thousand children under five would not have lost their lives: this is the sober and tragic conclusion of that study.<sup>22</sup>

**Table 4.2** Mortality of children under five in Iraq<sup>23</sup>

<i>Year</i>	<i>Baseline death rate per thousand under-five-year-olds</i>	<i>Period death rate per thousand under-five-year-olds</i>	<i>Excess deaths per thousand under-five-year-olds</i>	<i>Percent rate increase (excess deaths divided by baseline rate)</i>	<i>Under-five-year-olds (in thousands)</i>	<i>Est. excess deaths</i>
1990*	40	40	0	0	2,756	0
1990**	40	46	6	15	2,756	1,102
1991	40	100	60	150	2,921	35,052
1992	39	70	31	79	3,096	19,195
1993	38	65.5	27.5	72	3,282	18,051
1994	37	73	36	97	3,479	25,049
1995	36	80.5	44.5	124	3,688	32,823
1996	35	87	52	149	3,909	40,654
1997	34	87	53	156	4,144	43,926
1998***	33	87	54	164	4,393	11,861
<i>Total</i>						227,713

\* First eight months.

\*\* Last four months.

\*\*\* First quarter only.

This humanitarian tragedy proves how difficult political and legal relations are between democracies and a dictatorship. It places a responsibility on the Western state to take into account the absence of respect for human rights on the part of the target country. The sanctioner has to understand the strategy of a dictatorship that can contemplate sacrificing its population as a pawn in a game. Because of this difference, the responsibilities of the UN and Saddam Hussein's Iraq are not comparable. Nevertheless, the responsibility for the failure of a legal measure is serious, all the more so as the Iraqi regime could answer for its crimes only in war, which occurred some years later. The sanctions represented a failure of law, which is not the appropriate weapon when the sanctions are non-discriminating and are thwarted by the inertia of a dialogue that leads nowhere.

One question remains. Are these virtual studies of medical history adequate grounds on which to identify the embargo as the direct cause of these hundreds of thousands of deaths? To assert that the embargo "killed" two hundred and twenty-seven thousand children is an analytical error that confuses direct with indirect deaths. A confusion of this kind is most often maintained deliberately for the massive impact

the criticism of such a monstrously perverse phenomenon is likely to have on the general public. This accusatory register favors what is most often an inappropriate usage of counterfactuals; it links a reconstructed history with another one that is, from the outset, a model of injustice and horror (in this case, the term “genocide” is meant to make the connection with another history that preexists the Iraq embargo). In this argument, the United Nations and America become “baby killers.”<sup>24</sup>

Activists in the cause of the Iraqi people have equated the decision to halt trade between Iraq and the rest of the world with a bomb being dropped on that country without its being able to equip its population with protective shelters.<sup>25</sup> This is to leave out of account the difference between a bomb aimed directly at dwellings with the intention of killing their inhabitants and a bomb that hits civilians because the political leaders it was aimed at dodged it, knowing their population would bear the full brunt. Lack of foresight and failure of discernment in political relations with a dictatorship were at the origin of the Iraqi disaster. Responsibility is necessarily shared, without it being comparable; there is no equality in the register of responsibility on account of the difference between the two political systems. The United Nations failed to observe the humanitarian rules of its policy and is morally responsible for the disastrous consequences of a legal measure that had tragic effects on account of the defective assessment of the situation in which it was applied.

### Is it Legitimate to Punish in Order to Educate?

The moral criticism of sanctions gave rise to a lively debate on the marriage of law and politics. Was it sensible to assign such a place in the conduct of international affairs to law? Were not use of force and recourse to warfare the best ways of fighting dictatorial regimes that derived advantage from the punitive measures intended to bring them to heel?

The policy of sanctions rested, fundamentally, on a series of inequalities. It assumed a disproportion of resources between sanctioner and target.<sup>26</sup> It targeted societies where political domination was extreme or where the leaders of the pariah state were easily able to pass on the burdens of economic privation to their populations. Those leaders also tried to overturn the relation of forces by exercising a tribunician function directed toward sympathizers with their cause both internally and internationally. The legal and moral relationship created by the embargo led, initially, to an avoidance of the political.

Several voices were raised in efforts to resolve this deadlock. On the eve of President George W. Bush's investiture, representatives of his future government declared that American sanctions policy was now consigned to history. Paradoxically, the negative humanitarian effects of sanctions lent legitimacy to a return to war-fighting and these words in fact heralded the coming war against Iraq. That country was, admittedly, no longer subject to the sanctions regime that prevailed during the first half of the 1990s, but it was still an outcast nation. It was under UN control, but the multilateral organization had difficulties making its writ run. One aspect of this return of politics was, unfortunately, that it drew once again on the Schmittian category of the enemy. However, Saddam Hussein's Iraq merely possessed the appearance of being an enemy; this adversary remained a pariah, first stigmatized by sanctions, then destroyed once the war on terror had been decreed.

### **Grotius Reinvented**

From the end of the decade onward, the critique of sanctions developed into a reform of the punishment regime. Where unilateral action was concerned, the protest against the Cuban embargo had tangible effects despite very sharp resistance from the anti-Castro lobby. A law was passed in 2000 aimed at removing the prohibition on trading with Cuba in the areas of food and medicines. The measure applied also to the other countries subject to unilateral U.S. sanctions. The effects on the island were minimal, yet the victory of the corporations and humanitarian activists had a symbolic value.

Where multilateral action was concerned, the UN began a review of policy, embodied in a series of conferences, particularly those of 1998 and 1999 at Interlaken in Switzerland. The return of the political was based on a comity of states, whose essential pledge was the "honesty" and rationality of their representatives. The hosts of these reforms were states that had long-standing humanitarian traditions: Switzerland, Canada, and, lastly, Sweden.

"Smart sanctions" came into being under the auspices of the neutral countries and their rational benevolence. The aim was to reduce the length of time a state could be subject to an embargo, to diminish the effects on the civilian population by avoiding the prohibition of trade in vital goods, particularly for the weakest sections of the population, and to promote financial measures targeted against the leaders of the

state being penalized.<sup>27</sup> These restrictions were applied with a degree of success against the Milosevic regime after the Kosovo war.

The new—both unilateral and multilateral—sanctions have one main feature. They are designed to avoid civilian populations having to suffer the international consequences of their leaders' injustice. Politically, this marks a significant turning point. Appeals to humanitarianism have been heeded and states have turned toward the tradition of the seventeenth-century law of nations. By outlawing deprivation of food and medicines, states are going back to the "rule of discrimination" that prevails in Christian just-war theories. Grotius is here transposed into the economic field.

Humanitarian consciousness underlay this shift. It dictated the drafting of a new charter on sanctions that makes it an absolute principle to seek to save the lives of civilians and not target them intentionally. Medicine or, more particularly, epidemiology was the trigger factor and inspiration for this rediscovery of law. Sanctions are cures that must not be transformed into poisons. For the advocates of these reformed embargoes, only an adequate medicine is able to cleanse an imperfect remedy of its side-effects. The medical science of sanctions provided a solution to this problem. Just like "surgical" strikes, sanctions are to be "smart" and "targeted." This architecture avoids the intransigent features of Wilsonianism, without relinquishing its desire to educate the world. It is based primarily on a refusal to kill or to have any truck with killing, which gives meaning to its reform project. The embargo thus becomes a punishment without scars: this is the vision of the new surgeons of the international order.

### **The Truth of Sanctions**

The effect of the use of sanctions was to pose an essential political question: the truth of domination in the register of life and death. Sanctions, which are tainted with blood and live up to their Wilsonian reputation as "lethal weapons," prompted a debate on death and on the responsibility, both shared and incommensurable, of sanctioner and target. It is the aim of this morality of unconcealment to cast light on the various mediations between life and death. For the sanctioner, it is impossible to throw off all responsibility. The sanctioner's legitimacy is in play; the coherence of his morality determines his political effectiveness. The Iraqi example proves the absolute necessity of a prompt, alert reaction on the part of institutions that decree a policy, which, in its

outcomes, does not match up to their expectations. Where the target is concerned, the political and legal terms connecting it to the sanctioner must be made explicit.

This *demand for truth* broadly echoes the tradition of the law of nations. Like the principle of discrimination, the moral critique of sanctions requires that one knows the identity of one's opponent. There may thus be said to be a *jus ad bellum* of sanctions that lays down the categories of states and their offenses against which it is legitimate to bring the law into play. This would be complemented by a *jus in bello* of the embargo, which defines the identities of the responsible parties targeted by sanctions. This approach to the economic weapon leads to reflection on the place of individuals in a criminal state. It also sets the terms for a questioning of the collective responsibility of states (both the target state and the sanctioner).

Who should be penalized? For legal philosophy and for neo-Wilsonianism, this identification of the other is not without its problems. It is at the heart of the ambiguity of the writings of Gentili and Grotius. Seventeenth-century reformism was, in fact, less lenient than is commonly implied. Gentili and Grotius were opposed to the murder of civilians when the state clashing with their government considered it reasonable to spare their lives. If their status as civilians was in question or if their identity as noncombatants and their sincerity were not established, they could be punished and executed.<sup>28</sup> The same questions arise where the resort to sanctions is concerned. Who are the state agents most directly responsible for atrocities committed by a rogue state?

In their relationship to truth, international relations have not managed to break with their idealist roots. The specific anchorage point of the doctrine has, however, shifted. The traditional Wilsonian conception stresses the need to "punish the sinner." In the modern theory of sanctions, the deviant is identified with the role of *patient*. Sanctions are decreed on the grounds of a pathology detected by the sanctioner: a community's capacity to dissimulate. The charge-sheet is one of duplicity, cunning, and deception. This "illness" is aggravated by the opaqueness of international relations and by cultural difference.

*Lying* is outlawed. Sanctions are used against inferiors, both economic and, most often, political (bankrupt authoritarian or dictatorial states). This logic of difference validates the "war between civilizations" model; it is one of the effects of the moralization of international affairs and also reveals one of its major limitations. It is heir to one of the most problematical aspects of the classical texts, which

stress the shared register of honesty among states desirous of acceding to interstate society. This reign of the true has its source in a politics situated midway between law and morality. Gentili's writings are part of this quest for authenticity anchored in a hierarchy of identities; he stresses, in this connection, the difficulty of achieving an understanding for the purpose of making peace treaties with those who do not keep their word and who are not culturally accustomed to speaking the truth. Grotius, for his part, is less pessimistic and intransigent. He is, however, aware of the difficulty of universally sharing common rules that establish trust and reciprocity.<sup>29</sup>

The suspicion of lying and the confusion or anger that accompanies it extend also to the world of partners. Are sanctions imposed or lifted for honest reasons? To what extent do some partners escape the rules their states lay down? To face up to these doubts, the system is always desirous of secreting antidotes to its own ills. Sanctions produce their own oversight provisions; embargoes produce efforts to prevent evasion.

These challenges may turn into obstacles that are capable of paralyzing the whole international system. What means might there be for overcoming them and producing a *politics of truth*? The UN has developed a new generation of embargoes that are part of the contemporary dynamic of *re-enchantment*. These measures transcend the framework of smart sanctions. Based on hope within a rational framework, they are measures that depend on the development of capitalism as part of globalization. Whole swathes of a national economy may be stigmatized as a result of their role in the financing of violence, particularly in civil wars. In calling for a reform of the diamond trade<sup>30</sup> and paving the way for a global denunciation of a particular company's attitude, the leaders of the UN are now using rumor for purposes of governance. In hoping that capitalism will incite each of its protagonists to show itself to be virtuous, the UN "sanctioner" is encouraging an autonomous regulation of deviance and of guilty interdependencies. Fear of damage to reputations may be said to be the engine of this reform.

External sanctions that consist in punishing a political or economic entity may be said to have become unnecessary. The threat of sanctions would be enough to make the deviant partner adapt to the new global codes of propriety. This *internalization of constraint* and this deterrence of deviance are marks of the permanency of a Wilsonian dream; they are, just as much, evidence of the end of a vertical conception of authority. Deviance is a matter of habituation; the remedy is to be weaned off it. The new Wilsonianism is a godless religion; it calls for all to believe

in an order of truth capable of regulating the world through the need for virtue.

One further step must be taken: reflection on the relationship between violence and truth. Strangulation is the image that best characterizes “lethal” sanctions from the Napoleonic blockade to the Iraqi hospitals. The forms taken by the new sanctions break singularly with this model. The sanctioner uses sanctions to manifest his intentions. Embargoes are the tools of the politics of his truth. Disapproval shown to a regime that fails to uphold democratic values, the quarantining of its diplomats and the international stigmatization of its bureaucracy are among the many resources available to such a policy. Diplomats, international organizations, and the European Union might gain by grasping this opportunity, revising the way they carried out their functions, and incorporating the nuances of a politics of disapproval. The major sanctions campaigns that followed the fall of the Berlin Wall had a much more grandiose aim, but changing the world by the theology of economics foundered on the shoals of reality. Idealism had to show pragmatism and hitch itself to a project that was more ambitious than it initially appeared: establishing an international word of honor.

The rise of embargoes was accompanied by the emergence of a new generation of sanctions. In the late 1990s, boycotts took on the goal of righting past injustices. This third generation of critique was inspired by the human rights embargoes and campaigns against the multinationals. But did it match up to the model that allegedly inspired it?



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## CHAPTER FIVE

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### *Can Reparation be Made for Historical Injustices?*

[B]y progressively closing the borders, delivering captured refugees over to their persecutors, and adhering to restrictive principles for far too long, the country stood by as many people were undoubtedly driven to certain death. In this way Switzerland *contributed* to the Nazis' success in achieving their goals.

—*Final report of the Independent Commission of Experts  
Switzerland—World War II* (Pendo, p. 477; my emphasis)

Debates on reparations for historical injustices have been among the most innovative of the post-Cold War period. They are an emanation of urgent social demands on the part of individuals aware of a key historic turn that has thoroughly revamped a long-standing tradition. What do the advocates of this compensatory justice want? What obstacles do they come up against? What are the most satisfactory approaches?

#### **Napoleon, Wilson, and Keynes: An Affair of States**

Reparations were initially a reflection of the statist conception of war and peace that emerged from the Westphalian model. During the Thirty Years' War and following the peace treaty, the rights of the various states to compensation was a crucial question and the subject was broached by Grotius. The law of nations defends a victors'

justice and defines its modalities. It specifies the limits within which the victors must operate and the restraint they must show in the application of this law.

Material questions form an important chapter in negotiations in the aftermath of wars. In the nineteenth century, France was twice forced to pay a heavy tribute—first after the Napoleonic wars, then after it was defeated by Germany. In the history of reparations, the amounts paid by France from 1821 onward and after 1871 are the highest ever borne by a defeated state (table 5.1).<sup>1</sup> These sums were the “price to be paid” to be readmitted to the comity of nations; France accepted them in 1816 in a “nobly resigned, eloquent silence.”<sup>2</sup> Reparations and the payment of the costs of war were the tangible proof of the resumption of diplomatic and trading relations.

From the Treaty of Westphalia to World War II, diplomatic services and finance ministries were the only protagonists in these negotiations and their application: “‘Reparations’ relates to war and the intergovernmental level. It concerns the victors’ claim, backed by international law, for payment of the costs of war by the losing countries, either in money or in assets.”<sup>3</sup> In 1918 the Treaty of Versailles forced Germany to accept a program of reparations, which it denounced as unjust. The defeated state felt it had been wronged and many economists and historians stressed that the demands imposed on Germany were both unrealistic and immoral. In the eyes of its many critics, Versailles is the obvious example of the way victors’ justice can be abused. Forced by the Allies to sign a treaty that bled them dry, the Germans, reduced to impotence, would seem to have felt great pain at their humiliation.

Keynes was scathing about the tactics of certain European politicians.<sup>4</sup> He also disapproved strongly of the behavior of Woodrow Wilson.<sup>5</sup> For the American president, reparations and sanctions were part of one and the same mechanism. The aberrations of this “theology of reparations” would have a disastrous impact on Germany. The matter of the Versailles reparations has given rise to a perfunctory and, in many respects, misguided explanation of the Nazi seizure of power: Nazi success is said to have depended on a dislocation of the German social fabric that can be attributed to the Versailles Treaty.

Were the reparations that were paid in the past fair? This is a question that concerns Versailles, but it opens out into a thoroughly contemporary debate, creating a mirror effect between past and present. Should we not correct biases that have distorted judgment and shed light on injustices that have been ignored?

The Versailles reparations are said to have failed in one of their essential missions: restoring understanding and transforming former enemies into new partners. Is this a valid criterion when it comes to judging reparations? The debate was revived during the 1980s and 1990s, and more recent publications have given it fresh impetus. According to the historian Niall Ferguson, Germany could have paid in 1918.<sup>6</sup> Its leaders were, admittedly, disposed to believe that the economic pressure exerted on their country was too great, but the economic history of Germany suggests a different analysis and leads to quite different conclusions. With the support of their population, the German bureaucrats attempted (successfully) to thwart their creditors.

The debate around Versailles has profound contemporary implications. It is at the heart of a polemic on the true nature of this type of coercive legal measure. The Versailles reference fuels comparisons with other “judicial injustices.” The problem can be clearly stated. Just like embargoes that “go wrong,” aren’t reparations an unjust punishment? After the Gulf War, Iraqi representatives tried repeatedly to show that the demands placed on their country were too onerous.<sup>7</sup> Analysis of the burden of reparations is of the same order as the evaluation of the extent of sanctions and embargoes.

After World War II, Germany committed itself to an unparalleled program of reparations (table 5.2). Despite the trauma of the genocide, agreements were negotiated in the Netherlands in 1951 with the state of Israel and with representatives of the Jewish communities. After difficult but pragmatic negotiations, the Federal Republic signed up to a program in Luxembourg that had, in the main, three strands: reparations

**Table 5.1** A comparison of reparations between states in the nineteenth and twentieth centuries<sup>8</sup>

	<i>The cost of reparations (in millions)</i>	<i>As a percentage of annual GDP or GNP</i>	<i>As a percentage of annual taxation</i>	<i>As a percentage of annual exports</i>	<i>The proportion of GDP spent on servicing reparations debt (%)</i>	<i>The proportion of exports spent on servicing reparations debt (%)</i>
France 1815–1819	1,650–1,950 FF	18–21	195–231	367–434	1.2–1.4	24–28
France 1871	5,000 FF	25	201	167	0.7	6.3
Germany 1923–1931	50,000 DM	83	350	500	2.5	14
Germany 1953–1955	5,227 DM	7.7	39.0	32.9	0.1	0.4
Italy 1947–1965	366\$	1.1	7.9	13.3	0.0	0.4
Japan 1955–1965	1,486\$	3.0	10.6	34.6	0.1	0.8

**Table 5.2** German reparations after World War II to the state of Israel and the Jews (termed “*Wiedergutmachung*”). Evaluations and projections (as in 2000)<sup>9</sup>

<i>Payments</i>	<i>Payments made up to 2000*</i>	<i>Expected total payments*</i>
1. Federal Reparations Law ( <i>Bundesentschädigungsgesetz</i> )	82,069 (41,961)	95,000 (48,573)
2. Federal Law on Restitution ( <i>Bundesrückerstattungsgesetz</i> )	3,955 (2,022)	4,000 (2,045)
3. Federal Pensions Law ( <i>Entschädigungsrentengesetz</i> )	1,143 (584)	2,000 (1,022)
4. Law for the Compensation of Victims of National Socialism ( <i>NS-VentschG</i> )	1,088 (556)	3,500 (1,789)
5. Treaty with Israel ( <i>Israelvertrag</i> )	3,450 (1,764)	3,450 (1,760)
6. Global agreements	2,740 (1,401)	3,000 (1,534)
7. Other payments	8,903 (4,552)	10,000 (5,113)
8. Compensation for the Länder outside Federal Reparations Law	2,639 (1,349)	3,500 (1,789)
9. Compensation for suffering (specific cases)	2,969 (1,516)	7,050 (3,605)
10. The “Memory, Responsibility and Future” Foundation ( <i>Stiftung, ‘Erinnerung, Verantwortung und Zukunft’</i> )	5,000 (2,556)	5,000 (2,556)
<i>Totals</i>	113,956 (58,265)	<b>136,500</b> <b>(69,790)</b>

\* First figures in millions of DM, figures in brackets in millions of euros.

to the new state of Israel, funding for the development of Jewish community organizations, and pensions for the former inmates of concentration camps and their families. Germany continues to this day to pay individual pensions to Holocaust survivors. The total cumulative figure for these reparations is over 100 billion old marks. By the end of the program, this total could exceed 130 billion old marks (69 billion Euros).

This program marks a decisive turning point in the history of reparations. It is the last major case of interstate reparations in which a Western state finds itself in the position of debtor. It is the first program in which the representatives of religious and ethnic communities

took part in the negotiations. As such, it heralds the break with the Westphalian system.

Its innovative, complex character forced the participants to exercise their semantic imagination. The pastoral terminology of *Wiedergutmachung*<sup>10</sup> employed by the German leaders was widely contested by the victims of the genocide. The idea that Germany could emerge with its reputation enhanced by its action was deeply offensive: it was, they argued, impossible to restore an initial state, and even more impossible to do "good." The victims resorted to their own vocabulary, using the term *shilumim* (Hebrew for "the payments"): it was a matter of justice, not kindheartedness.

Another aspect of the way the monies paid by the offending state are viewed is marked by a similar battle over the appropriateness of the language employed. Is the term "reparations," which is the most widely employed, actually the most suitable? Why should compensation that also includes the restitution of looted goods be characterized in these terms? Each of these categories casts light on one level of the reality and none is entirely satisfying in characterizing the whole of the negotiations and their resolution. The term reparations refers to the funds the representatives of the perpetrators offered the victims to help them to begin their lives afresh after the terrible experience they had undergone. The Luxembourg Agreements specified sums of money that the Federal Republic paid to Israel over twelve years in order to support the development of that new nation. The calculation was based on the cost borne by that country to meet the needs of immigrants (five hundred thousand individuals at three thousand dollars per person). These agreements allow for the compensation of physical and psychological suffering, together with the restitution of material goods. The suffering involved was specifically evaluated in a process involving a great many experts (doctors, psychiatrists, etc.). In the case of material goods, it is very difficult or even impossible to determine a sum exactly equivalent to the value, at current prices, of the goods taken from the victim. Only the cases of the restitution of bank accounts, real estate, or personal property amount, in theory, to full restitution, and then only on condition that the real estate is as habitable as it was previously or that the prices of the possessions concerned have not varied too greatly. Both before and after the event, the frame of reference is, therefore, one of "reparation" or, rather, of a principle of compensation accepted by all parties. The extent of this compensation and its scope were at the heart of the negotiations; between them, they constitute the policy of reparations.

### Repairing Reparations

During the 1990s, many victims appealed for justice and called for new financial compensation schemes to be set up. Among those involved were Jews demanding that Swiss banks, European insurance companies, and German industry restore their goods to them and pay them compensation. Other communities that were victims of World War II also received compensation, most notably the Slavic populations. During the last decade, several groups of Indians in Latin America have called for the recognition of their economic rights. The Aborigines have also presented their demands to the Australian state. Legal arrangements for the transition to democracy, in Argentina and Chile among other places, included provisions for compensating the families of torture victims and the “disappeared.” And African Americans have begun the battle for compensation for slavery in the United States.

During the Cold War a number of voices were raised in denunciation of these injustices, but such calls went entirely unheeded. The security dimension of East–West relations and the friend/enemy division prevented communal demands from having any resonance and crossing national barriers. It would have been unthinkable for American lawyers to endanger trade or good relations between the United States and Switzerland or Germany. American soldiers interned by the Japanese during the war in the Pacific recently demanded compensation for the forced labor they had been made to perform. Such a complaint would have been inconceivable in the days when the United States led the Western bloc against the USSR.

A global reparations policy has come into being. There are two main features to these demands that differentiate them from preceding models. They were initiated by individuals and groups external to the state who demanded either from governmental bureaucracies or from large private companies that past injustices committed against them should be fully brought to light. A great many of these demands had one other common feature: the historical episodes to which they referred had already been the subject of legal, political, and, also, economic agreements. The victims were demanding that the past be reassessed and new aspects of their plights taken into account.

These concomitant demands have, in the main, been produced in the post–Cold War period. They attest to the capacity of activists to form networks comprising a variety of forms of expertise. The activity of these networks presupposes access to historical information, as well as an ability to handle the law. It has both national and international

consequences. The main driver of these forms of mobilization is joint action and cooperation between people formerly separated by classical occupational boundaries.

These demands have benefited from the favorable context of globalization and interdependence between economies and financial centers. European companies feel threatened as a consequence of their interests in the United States. Both in the industrial and financial sectors, many mergers and acquisitions took place in the 1980s and 1990s, as a result of which links between the European and American economies were strengthened. A growing proportion of European exports now goes to the American market. For almost half of French companies, the United States provides around 50 percent of foreign sales.<sup>11</sup> A very large number of British and American shareholders also now have holdings in European companies.

The fall of the Berlin Wall has produced a global archive politics. New documents from the political and economic history of World War II have been disinterred in Moscow. This new data have fed into several cases and encouraged historians to diversify the sites of their research; their travels have had an impact on the definition of their aims. The public appeal of the past also plays to a wide audience. In an age when “memory” is becoming a matter for popular, secular celebration, many journalists have decided to devote a large part of their investigative efforts to historical injustices.

Victims have appropriated a dual frame of reference for themselves, which has provided the standard by which “victim competition” is to be structured: the fate of the Jewish people during World War II and the transatlantic slave trade. Chronologically, the actions against the Swiss banks and German industries inspired the demands of the African Americans. Other communities and minorities drew a lesson from “the history of history” and pressed their rights for compensation. The idealism of the international legal system fostered this massive trend, through which a new chapter is being written in the history of human rights.

There was a new development in this mirror-play between past and present when the NGO Jubilee 2000, which argues for the economic rights of the countries of the South,<sup>12</sup> formed an alliance with the American lawyers who brought the cases against the Swiss banks and German industry, and also with South African activists. The studies carried out as part of the Jubilee 2000 campaign picked up the thread of virtual economic history, attempting to show that the activities of the Swiss and German banks that did business with the Apartheid regime extended the life of that political system.<sup>13</sup> Actions were brought in the



American courts to demand that Swiss and German banks (soon to be followed by French and American ones) give an account of the business they may have done with the South African Apartheid regime. The legal actions taken by this triumvirate coincided with the Durban Conference; taking their lead from the actions formulated around World War II, their frame of reference was slavery and the domination suffered by black people. Slavery, ancient and modern, and also genocide were all brought into the question. This Möbius strip of references lent the accusation substantial weight. These actions echoed the campaigns against multinationals that violate human rights law, such actions being based on the exposure of transgressions of UN embargo rules (though this does not apply to Switzerland).

### Denunciation

The reparations and restitutions demanded by Jewish groups revealed an international rift with increasingly crucial effects. A clash of *ethos* occurred, creating a mirror-effect between an “old Europe” still attached to its sacrosanct statist past, and the “new world,” which sees the individual, civil society, and money as representing the future.

Prime mover in these transatlantic arm-wrestles was undoubtedly the World Jewish Congress. This organization had already been involved in negotiations with Germany and, as early as 1944, pronounced itself in favor of an economic settlement made within an international system of justice. However, the World Jewish Congress was not the most active movement in the Hague negotiations. During the Cold War, it devoted its energies to assisting Jews in the Soviet Union.

The organization changed character in the 1980s when the Canadian magnate Edgar Bronfman took over its leadership and attempted to give its activities greater visibility. Shortly after his appointment, the industrialist launched an international campaign against the nefarious figure of Kurt Waldheim. In the exposure of the UN secretary general’s Nazi past, we see again three characteristics that were present in the scandal of the Swiss banks and the European companies: harm done to the reputation of an organization by the exposure of shameful behavior; revelation of an unknown aspect of World War II; and the establishment of a campaign that is international in its scope, resources, and consequences.

With this first success behind it, The World Jewish Congress now had resolutely global ambitions. It also wanted to assert itself on the

American stage, especially vis-à-vis other Jewish organizations. After the fall of the Berlin Wall, it turned its attention to the least well-known aspects of World War II. Times had changed. In the immediate aftermath of the genocide, it would have been difficult for the victims to assert their rights. At the end of the war, both in Israel and in the diaspora, many Jewish voices were raised against their representatives' official attitude toward Germany: these voices were critical of those who accepted tainted "blood money." The victims felt shame at the idea of making a request to their former persecutors. More than forty years later, this shamefaced restraint was no longer so widely shared.

The World Jewish Congress and the lawyers condemned the disdainful behavior of many of the Swiss—and, subsequently, French—dignitaries who took the view that money was not the best way to assuage the pain of memory and that the burden of these reparations could not be imposed on them. The pugnacity of the former clashed with the defensiveness of the latter—and their "art of not paying their debts"<sup>14</sup>—which the claimants were not slow to mock.

In the opinion of their accusers, the European authorities and their representatives behaved in a doubly shameful manner. In the first place, the Swiss, French, and German states and companies should bear the burden of their past misdeeds. Moreover, when they refused to comply with the new reparations claims, those institutions and their representatives protected themselves, it was said, behind an aristocratic disdain aimed at loading on to the claimant the burden of a guilty claim ("You ought to be ashamed to ask for money!"). It was around this play of representations that the tussle between the claimants and the European institutions took place.

In the view of the World Jewish Congress, the descendants of those guilty of cooperation with Nazi Germany could be said to have accomplices in the present. The Congress's activists took the leaders of European Jewish organizations violently to task, particularly in France, for their reluctance to adopt a firm position toward their own states. In violent altercations with members of the European Jewish communities, Edgard Bronfman condemned their stance as one of "shamefaced Jews." In his eyes, they could be said to be the last representatives of a world that is, happily, doomed to disappear. Edgar Bronfman's remarks are illuminating in this connection:

France is just beginning to do its homework. There's now 3,000 accounts, about \$175 million. And God knows what else there is in France, and France is now going to have to face its Vichy

Government and what the Vichy Government of France did. Here's a group of people who gave Jews to Germans before they even asked for them. Not that the Germans wouldn't have asked, but the French anticipated—not a great thing to have in their history. They're going to have to face all this ... We'll get *everybody else to do the same thing*. France will probably take a little longer. The French are looking for a polite way to do all this. *There isn't any polite way to do this* (Laughs). But I think President Chirac is determined, and our biggest problem is not the French government. It's the French Jews. French Jews always try to be more French than the French and I've got to teach them—we've got to teach them—the way to fight anti-Semitism is not to cover but to stand tall. They may not like you but, dammit, they'll respect you. I'd much rather be respected than liked any day of the week.<sup>15</sup>

### Naming and Shaming Campaigns

How can one imprint the mark of shame on the targets of one's criticism? Nongovernmental organizations or ethnic and religious communities commonly resort to the exercise of "naming and shaming."<sup>16</sup> The very first act of the World Jewish Congress and the lawyers was to attack the European companies, asserting that they had grown rich out of the war. The persons harmed by this illegal, immoral conduct had to be compensated for this "unjust enrichment."<sup>17</sup> In the name of principles inspired by a philosophy of property and restitution, the European companies were obliged to make a reasonable offer. The tactic here consists in demanding of the suspect that, as a result of the pressure to which he is subject, he offer a sum of money regarded as satisfactory by the complainant. It assumes a division of roles between the denouncer and the accused. The denouncer attacks the accused, employing blackmail by threat of defamation and a boycott of the companies that are said to have denied their misdeeds. He awaits the accused's offer. If it turns out to be small, the accused is suspected of dishonesty or avarice and ill-will.

The Swiss were the first to experience the cost of a useless, expensive denial. Because of Germany's role in the war, the sensitivity of opinion in that country about the Shoah, and the demonstration of force by American lawyers and the World Jewish Congress, German industrial companies accepted the principle of compensation more easily and

quickly. In giving in, European companies also criticized the blackmail to which they said they had been subjected. Other, more astute entrepreneurs went along with the campaign, participating in the disclosure of a shameful past. A number of German business leaders adopted this line of conduct.

The denunciation of businesses presumed guilty involved an intense campaign in which pressure was exerted from the United States. In 1995, Swiss bankers felt they were able to resist the demands formulated by Edgar Bronfman. Over the next two years, they countered the Jewish demands with a massive denial, which prompted the lawyers and leaders of the World Jewish Congress to display an ever more aggressive attitude. The campaign against the banks involved two aspects of their wartime activities that are often confused with one another. The World Jewish Congress set out to look for evidence of the existence of unclaimed accounts in Switzerland's banks. At the very beginning of the crisis in the winter of 1995, they were claiming such a discovery. They were not, however, able to make a total estimate of all the accounts that still had balances in Swiss coffers without the depositors' descendants being able to claim them. They were also interested in the relations between Switzerland and the Third Reich.

The lawyers and the World Jewish Congress were fighting on several fronts. They called for the creation of institutions—in most cases, national commissions—that would bring the demands of the various complainants together, both in Europe and in the United States. They discredited the banks by asserting a new history of their activities. Lastly, the “holocaust era assets” scandal had local repercussions in a number of American states. Several American lawyers delivered an ultimatum to the bankers, threatening to restrict their activities in New York or California; this threat turned out to be decisive in concluding an agreement.

The favorable balance of forces was further enhanced by waiting on a confession. Their accusers wanted to induce these financial establishments to carry out an introspective self-examination. They also relied on institutional assessments. A commission made up mainly of historians, chaired by Professor Bergier and convened in Geneva, examined Switzerland's role and responsibility in the war.

From 1996 to 1998 the World Jewish Council and a number of American lawyers exerted pressure on Switzerland by bringing a series of class actions in the American courts. The World Jewish Congress also explored the possibility of laying the matter before the American Congress in order to attack Switzerland with economic sanctions.

This possibility was the focus of discussions with Republican senator Al D'Amato, who initiated the embargoes on Libya and Iran in 1996. A measure of this kind targeted against Switzerland was never adopted, the plan being quickly abandoned. The World Jewish Congress and the lawyers opted for the application of legal pressure, the main protagonists in this being the courts and the various bodies charged with regulating commercial activity at the local level. In so doing, they took their lead from the kinds of pressure that had been exerted on the oil and textile multinationals over human rights issues.

### **The Marriage of the Lawyer and the Historian**

Despite all this, the problem: what might have happened if, for example, Bismarck had not decided to make war (in 1866), is by no means an idle one.

—Max Weber<sup>18</sup>

It was part of the intention of the compensation claims made against Europeans to prove past collusion with the Nazis, overlooked by the postwar tribunals. Lawyers and activists besieged bankers, insurers, industrialists, and states in the attempt to lay bare the shameful dimension of their history. This quest to have nations and their companies confess is a singular event of enormous scope. It is one of the essential vehicles of the borderless expansion of transitional justice and the repentance model.

At the beginning of the scandal of the Swiss banks and the unclaimed accounts, the lawyers and the World Jewish Congress employed archive researchers. They wanted to prove the existence in the archives of accounts that had been opened in Switzerland by Jews who had perished in the camps. Working for the law firm of Cohen, Milstein, Hausfeld, and Toll, Miriam Kleiman was one of the first to exhume from the Washington archives a list of names of account holders that was compromising for the Swiss bankers. That list had a spectacular impact in the media, even though the descendants of the persons listed were unable to obtain restitution of the monies deposited by their relatives.<sup>19</sup> This type of action inspired new campaigns. Both the claimants' lawyers and the companies accused—the banks, insurers, and industrial companies—drew on the services of historians and archivists to get to the bottom of a potentially ignominious past.

This historical research resonated with a search for identity. While the victims and their descendants engaged in extended reflection on their identity, their introspection led them to develop their history through memory, and to identify new guilty parties as they recovered the memory of the calamities they had suffered. Memory demanded its due. Whereas the Nuremberg tribunals had judged and sentenced dignitaries from the Nazi regime, the post-Cold War demands brought under scrutiny the support the Nazis had enjoyed in the perpetration of the Holocaust. The accusatory gaze shifted from the perpetrators to the beneficiaries. Where the Nuremberg trials focused on those guilty of genocide, recent scandals have been directed against those directly or indirectly responsible for injustices committed in wartime. This justice after the event involves a retroactivity of a particular kind. The judgment at Nuremberg was retroactive in that it established the notions of genocide and of crimes against humanity. The retroactive, indirect dimension of the law is further accentuated here: companies that collaborated with the Nazis are now being summoned to appear before the tribunal of history fifty years after the end of the war.

The call to confess is based here on a forensic investigation. The historian is obliged to find evidence of the responsibility of a particular entity, to get to the bottom of the behavior of a group, company, or bank, to evaluate a decision-making process by reconstituting its various sequences.

This approach is a product of virtual history.<sup>20</sup> It identifies the alternatives that face a bank, company, or industry when they rub shoulders with a dictatorial power, making the assumption that several possible options do exist. The historical trajectory is reconstructed, modifying one of the sequences of the causal chain underlying the decision; it is the aim of this operation to provide an explanation of the actual history.<sup>21</sup> *What would have happened if the Swiss banks had not contributed to financing the Nazi war economy, if German industrialists had not worked actively alongside Hitler? If the Swiss had refrained from all trade with the Germans, the war would perhaps have been shorter; this can be said, therefore, to prove a causality that rationally establishes Swiss responsibility. This history provides backing for a practice of law based on the same logic.*<sup>22</sup> Virtual history is mobilized for moral ends. This is not an isolated approach: we see it also in debates on contemporary conflicts.<sup>23</sup> Counterfactual history feeds into a process of denunciation: by proving that things could have been otherwise—that the Swiss banks made a decision that commits them directly, that Switzerland adopted a very specific policy toward

refugees, that German industrialists could have not used the forced labor of prisoners—these “new historians” hint at a moral offense of substantial magnitude deriving from a collective decision.

This knowledge was indispensable for the preparation of the lawyers’ cases. Archivists and young historians—often students adept at handling archive materials—devoted themselves to the search for empirical evidence of guilty relations between economics and politics. These research minions provided the lawyers with their ammunition. Stimulated by the project of a “justice of the future,” the young recruits displayed enormous zeal.

The times were ripe for seeking out new offenders. Daniel Goldhagen’s book on Nazi Germany appeared and was soon followed by a second publication on the Catholic church.<sup>24</sup> This literature focuses on groups united by the common denominator of culture. Aimed at winning over the general public and meeting the expectations of victims calling for material recognition of their suffering at a time when they were at the end of their lives, it is resolutely polemical. It is generally unoriginal, and also lacks rigor in the way it deploys both its implicit and explicit concepts. We nonetheless find some of the questions it raises in the work of professional historians, experts who can in no way be accused of bias or imprecision. In its report, the Bergier Commission raised the issue of the nature of anti-Semitism in Switzerland, its historical and cultural foundations, and its role in the ambivalent position of the Swiss state toward the Jews.<sup>25</sup>

### **The Violence of Exposure**

In this way, the market introduced a surveillance mechanism and the economics of war became a criminal undertaking. These denunciations hit governments on the rebound. States became secondary targets for activists, who now sized up the opportunities offered to them to dismantle two of their main prerogatives: the writing of history and the framing of law.

The law and history activists have won many cases and transformed the way Western societies view the historical injustices of wars and genocides. They have confronted past economies and benefited from the implicit agreement of the protagonists of the present economy, the market, and the companies within it. One effect of this collusion has been to pose problems for the European state in its most traditional, sovereign form.

Where Switzerland is concerned, the Holocaust Assets issue represents a historic revolution on a sizeable scale. The “revisionist” history of World War II—the critical history for which several historians have in the past attempted to gain acceptance in the official circles of the state and in public opinion—now occupies a central position. For many years the “*Sonderfall*” (special case) argument guided the official narrative of the Swiss Confederation. According to this version of national history, the country had been forced to cope with a major problem: its geographical position. Its policy, it was said, was dictated by its exposure to the appetites of the encircling powers. The new history has dismantled this myth. The work carried out by commissions funded by the state, published after financial settlements with the American lawyers, has contributed to this demolition.

A number of activists wanted to inflict symbolic punishment on collaborationist states, or on states indirectly responsible for the course of the war. Denunciation—and the symbolic violence expressed in it—have profound consequences for state power. The American diplomatic service was forced to come to terms with these para-diplomatic bodies and to approach the American courts over the matter, making recommendations to them in the form of *amicus curiae* briefs. If the courts had continued to accept actions by the victims, the settlement of the agreement between the United States and Germany on forced labor would have been compromised. Once the agreement was signed, Germany avoided its companies being affected by legal proceedings, even if it had to resign itself to putting in question a treaty negotiated with the USSR in 1990.<sup>26</sup>

The legitimacy of the Swiss state was also affected when it had to rehabilitate one of its police commanders in charge of border issues, Paul Grüninger, who had allowed refugees to stay in the country when their papers were not in order. Charles and Sabine Sonabends, whose parents died in Nazi concentration camps, also approached the Swiss government for compensation. Switzerland refused to acknowledge its responsibility, but it did agree to make a pay-out to cover the Sonabend’s legal costs. The sum of 118,000 dollars corresponded more or less to what the two Sonabends had demanded as compensation.

### Neutrality Does Not Exist

It is in the context of this mandate that the report catalogues the role of neutral countries, whose acceptance of the stolen gold in



exchange for critically important goods and raw materials *helped sustain the Nazi regime and prolong its war effort*. This role continued, despite several warnings by the Allies, even long past the time when these countries had any legitimate reason to fear German invasion.

—Stuart Eizenstat<sup>27</sup>

Stuart Eizenstat, under-secretary of state for economic, business, and agricultural affairs, was charged with negotiating the “Holocaust Era Assets” question by President Clinton. He undertook the negotiations with the Jewish organizations and the lawyers concerned. His report, which was published in May 1997, expressed severe criticism of the thoroughly self-interested nature of the neutrality policy of a number of countries during the war, such as Sweden, Turkey, or Argentina. Having traditionally been associated with humanitarian values, neutrality now came to be seen as “malevolent.” Switzerland was said to have prolonged the war: this verdict, which echoed the denunciations made by lawyers and the World Jewish Congress, represented a real precedent in diplomatic relations.<sup>28</sup> The pursuit of confessions prevailed above all else in this new “arm-wrestle.” In another sign of the times, the Eizenstat Report ends with the observation that America did not do enough to save the Jews during the war.

The conference held in London in December 1997 had as its aim to look into the question of Nazi gold and the relations between Switzerland and the Reich. It was indisputably a victory for the activists. The presence of historians and representatives of the various European states gave considerable legitimacy to the meeting, which contributed to alerting the Swiss banking institutions to the danger this crisis represented. Furthermore, the first reports published by the Bergier Commission of Historians, assembled in Switzerland, corroborated some of the estimates in the Eizenstat report on the amount of Nazi gold deposited in the Swiss banks.

There was a violent campaign to blacken the name of the Swiss banks in this period. The various questions—Nazi gold, looted works of art, and unclaimed individual bank accounts—were deliberately lumped together. In line with the Eizenstat report, some of the research supported an accusation that made a substantial impact on the public interested in these legal actions: these investigations showed that the Nazi gold deposited in the Swiss banks was made up in part of gold looted from the Jews who had been sent to the camps, particularly from gold fillings removed from corpses. The banks’ participation in

such cannibalistic economic activity made them guilty in a particularly striking way. The claimants were battling against the forgetting of these events and they denounced the damaging effects of decisions dictated by the national interest of the powers at the end of the war. Considerations of justice had been pushed into the background when these agreements were made. The question of Reich gold deposits that came from the looting of European central banks had, admittedly, been discussed after the war. However, for reasons relating to the Allied desire to preserve their good relations with the Swiss federation, it had been treated summarily.

This denunciation operation was based on a linking of different historical sequences. In combination, these produced an interpretation of history that paved the way for a final indictment. The major stages were as follows. By accepting the Nazi regime as one of its clients, Switzerland could be said to have eased Germany's task in the war. By pursuing a grasping policy of this kind, Switzerland and the banks were party to the conflict and enabled the Nazis to continue with their genocide. The fruits of the genocide were recycled as profit, which came in part from the confiscation of the assets of the various central banks and in part from the despoliation of individuals. This money was entrusted to the banks, which were careful to incorporate it into their assets and derive profit from it. Ultimately, Switzerland, as a national community, benefited from this. The combination of these various sequences, each of which is valid individually, suggests an intention on the part of the accomplice in effecting the genocide, without ever saying explicitly that this is the case. This allusion to a possible concealed intention was the most formidable weapon in the denunciation of the shameful behavior of the Swiss.

The banks' opponents won new pressure groups and lawyers over to their cause, particularly within the various states of the United States. The regulators of these local powers were able to block trade on the part of companies whose activities were regarded as dubious or illicit. The critics gave evidence of their capacity to create a nuisance if future boycotts were to be put in place.

This exposure was aimed at the sub-state-level forces that participated in the genocide. The behavior of the market actors and ordinary citizens—war profiteers, receivers of stolen goods, and art collectors—was stigmatized and the question of collective responsibility arose. That question seems even more legitimate today for the fact that the interdependence of the economy and its neoliberal patterns encourage general thinking on the nature of a system that is made up of the relations

between its parts. A liberal vision of the economy vests responsibility in the actor, who occupies the place of moral subject in a world that transcends borders between nations.

As a result of the crisis with the Swiss banks, together with the prospect of new lawsuits against other European companies, diplomats became aware of the dangers of a politics based on "smearing": relations between the United States and the major European countries were under threat. The conference that took place in Washington in 1998 under the auspices of the State Department and in collaboration with the NGOs bears witness to the diplomatic efforts deployed to resolve these tensions.

### **The Ephemeral Comeback of States**

The conference held at Washington in November 1998 marked a turning point. It was more ambitious than the previous gathering in London and government delegations were also present, alongside delegations of activists, lawyers, and experts. It was called by the State Department, which provided the organizational backup. A valuable auxiliary in this task was the Holocaust Memorial Museum, which facilitated the dialogue between states and the representatives of civil society.

The role of the Holocaust Museum was central. By its administrative status, it has a duty to respond to requests from diplomats and politicians; it provides a forum of debate for questions relating to the Shoah and other genocides. Its historians are used to confronting scientific issues that are also social questions; its aim is to encourage dialogue and build links between these different worlds. The agency stands very much at the meeting point between the world of states and civil societies, both in America and Europe. The Holocaust Museum was founded in the early 1980s and it represents a crucial building-block in the edifice of Holocaust memory in the United States.<sup>29</sup> By its statutes, it is akin to a public body attached to the State Department and thereby serves an eminently political function. As a museum, it presents exhibitions in which documentary records, sometimes from overseas, are presented. It also receives delegations from other countries. The Holocaust Museum quickly took a position in the fraught debate that compared the Shoah with other genocides. Today its activities also cover non-Jewish victims of World War II and minorities subject to genocides unrelated to that conflict. Universalist comparison is, then, the order of the day.

The Holocaust Museum organized several meetings in the wake of the Washington Conference: its two main tasks lay in fostering networking between historians, and communication between historians and politicians. It worked to effect a *rapprochement* between the supranational dimension of civil societies, the celebrations of the memory of the Shoah in the various Western countries, and the imperatives of American foreign policy and the State Department. The Holocaust Museum continued the efforts of the Washington conference by facilitating meetings between diplomats in various directions. The Americans were in favor of organizing a meeting that would enable the Europeans to consider the appropriate political, cultural, and symbolic measures to accompany the concrete implementation of restitution. The Holocaust Museum's directors wished in this way to head off potential rejection and intolerance, and aimed also to bring together new states that might be caught off-guard by charges leveled by the World Jewish Congress. The American diplomatic corps and Eizenstat's team proposed that a new event be held, with states as the official participants, that would be devoted entirely to Holocaust memory and education.

The Swedes, alarmed by the troubles that had befallen the Swiss, agreed to hold a conference of this kind on their soil in 2000, in order to show their goodwill to the world. Following this summit, and as a way of closing ranks between diplomats, the European states proclaimed their indignation when they learned of the formation of a government in Austria containing members of the extreme Right. The call for sanctions against that government was launched from Stockholm.

Representatives of many of the countries aspiring to join the EU and NATO were present at the Washington conference. The work of the Holocaust Museum with these societies was preventive; it prepared them to cast a radically new eye over their histories, in order that one day the Holocaust Assets issue could be treated from a legal and economic standpoint, without forgetting the responsibility of the local populations.<sup>30</sup>

Stuart Eizenstat was the main architect of the Washington gathering and of the activities that followed it, which enabled the two camps and the multitude of protagonists at the conference to lay out their claims and respective positions. This delicate diplomatic undertaking was crowned with success. By contrast, when confronted with the strengthening of the Cuban embargo some years previously, and with demands that property despoiled by Castro be restored, Eizenstat had not been able to counter the Cuban Americans or to block the legislation.

**“The Criminal Shall Not  
Profit by His Crime”**

According to the Talmud, it is forbidden for the sinner to profit from his sin and the claimants took their inspiration from this source. The diplomatic success of the Washington event did not bring an end to the lawsuits. The Washington gathering paved the way for another front to be opened up. A German NGO,<sup>31</sup> whose mission is to provide assistance to the victims of National Socialism, made much, at that gathering, of the importance of settling compensation claims relating to forced labor, mainly from Slavic populations. In July 1999, the American lawyers and the banks arrived at an agreement that provided 1.25 billion dollars for the victims. The settlement of this lawsuit was also, effectively, a capitulation. The defeat of Switzerland encouraged other claimants to make their voices heard.

German society, its industry, and its media quickly accepted the principle of new compensation over and above that decided in the postwar negotiations and trials. The new debates around the German Fund for Memory were of considerable scope. They did, in fact, prompt renewed discussion of the responsibility of German society as a whole, a discussion that chimed with the polemic regarding “ordinary Germans” and the crimes of the *Wehrmacht*. An agreement was signed in 2000 between the United States and Germany. The decision made by Chancellor Schröder and the German state to establish a fund of ten billion marks,<sup>32</sup> 50 percent of it supplied by the state, was aimed at halting the lawsuits in the American courts.

These developments ran alongside the advances made by human rights in the business world and its “virtue market.” The ethical officers of the multinationals were alerted and were increasingly concerned to head off scandals or to counter them. Beyond German companies, human rights standards were also applied to U.S. companies; American society learned, at times to its amazement, that American multinationals were also involved, Ford and IBM being among the companies targeted by lawyers on account of their wartime activities in Europe. The actions brought against Ford over the forced labor policy practiced by its German subsidiaries and against IBM over the sale of machines (the forerunners of electronic calculators) that had facilitated the counting of persons rounded up to be sent to the camps prompted many public debates that had a wide impact. Journalists threw themselves into extensive investigations of the history of these companies or turned to existing work that had previously gone unnoticed in academic publications.

The critique of American productivism and the lack of scruples on the part of these employers prompted a questioning of the role of technology in the death-dealing development of Western capitalism.

American society was seized by a certain fascination with these revelations and publications and this interest marked a profound change. The profession of "genealogist" made its appearance. The background to the genealogists' operations lies in environment law. Their activities have developed considerably in recent years as American lawyers have discovered the possibility of bringing actions against companies that have caused natural damage harmful to their surroundings. The company and the polluter are made to answer for the harm caused by their activities, thus raising the question of compensation on the grounds of the risks run by third parties. These consultancies and technical bureaus became interested in unclaimed property and began searching for evidence of unclaimed accounts or policies. The approach of these "gold-diggers" is, as they put it, "genealogical." They go back to the origins of disputes between plaintiffs and accused, as in the investigations they conduct in the environmental field, when identifying the role of a polluter. Through the prism of risk, then, we see the emergence, particularly in the field of insurance, of specialists in historical disasters, seeking out proof that Shoah victims had taken out insurance contracts. In this field, the Risk International claim recovery firm<sup>33</sup> joined forces with the Simon Wiesenthal Center of Los Angeles to produce the "Living Heirs" project.<sup>34</sup>

The art market was also affected. The career of the journalist Hector Feliciano and the fate of his book illustrate the extent of this phenomenon. Feliciano, a *Washington Post* correspondent in Paris, decided to leave his newspaper and devote his energies to an investigation into what had happened to looted artworks belonging to a number of Jewish families of the haute bourgeoisie. His investigations lasted several years. The fruits of his labors appeared in France in 1995, but the book made no impact. When the Holocaust Assets scandal broke out in the United States, the author decided to publish his work there and, from the first, it reached a very wide audience. Translation into a number of languages gave his revelations genuinely global impact.<sup>35</sup>

The art market became interested in Feliciano's activities and he moved to the United States. While continuing to devote himself to publishing his findings, he turned his expertise as a historian of stolen paintings to good account with the auction houses. This story is not simply one of the individual career of a journalist who intuitively understood the importance of an unexplored field of investigation.

It shows the reactivity of a market based on trust between buyers and sellers.

The results of Feliciano's career are instructive for another reason. He carried out his enquiries in a field that, until the mid-1990s, represented a blind spot for academic research. Neither art historians nor historians of World War II had shown an interest in this area where their disciplines overlapped. Ideas crossed national and social barriers; they also transgressed established disciplinary boundaries. Once again, the market defied national institutions, galleries, or universities by constituting its own fund of expertise. Edwin Black's book on the history of IBM filled in equivalent gaps in knowledge and introduced a more or less new strand of research into economic history.<sup>36</sup>

These scandals indicate a change in the way the spoils of war are viewed. It was traditionally one of the prerogatives of armies to snatch precious goods from the enemy. The example of the Napoleonic campaigns is one of the most evocative illustrations of the sacred dimension of this rewarding of the hero: the spoils belonged to those who seized them; and such a vision of war did not even shock those institutions that suffered as a consequence. On the occasion of the Emperor's marriage to Josephine in 1810, Pope Pius VII visited the Louvre, where he saw objects that had formerly belonged to the Vatican. If questioned on the pain he might feel at the sight of those objects, he would have replied that it was normal for them to be there; they were the customary mark of every victory.<sup>37</sup> The desacralization of war and the rise of democratic individualism have made looting and the theft of art works unacceptable. The recent indignation at the attempts to loot the Museum of Antiquities in Baghdad after the American intervention are clear evidence of this change of attitude: President Chirac employed the notion of crimes against humanity in his denunciation of these abuses. The gods have withdrawn from international relations: heroes have become transformed into policemen, obliged to act with restraint and forbidden to take reward, while their adversaries have become outlaws.

### **Financial Compensation for Older Crimes**

On the eve of the millennium a number of black leaders, lawyers, economists, and lobbyists decided to assert their rights, with a view to gaining compensation for slavery and its consequences. This is the most emblematic of the claims that push back the temporal limits of empathy. During his journey to Africa in 1998, President Clinton

was at pains to stress that American repentance had to find a way to express itself. The president was aware that the moment had come to initiate a debate, but he wanted to avoid legal action and financial demands.

The demand for compensation for slavery is not new. However, it had never previously been so clearly and systematically stated. During the 1970s, the idea was mooted in the United States, particularly within certain Black Protestant communities. They demanded payment by the American state of a sum that would indicate the wrong done to Africans by white people. A number of legal scholars timidly outlined their first thoughts on the matter. The prospects of success of such a claim were, nevertheless, limited and the potential complainants were discouraged. On the margins of the African American communities, radical voices called for mobilization against the forces of the white establishment, without, however, convincing people of the appropriateness of such an approach. In Africa, political movements joined in with these demands, particularly in the wake of decolonization. In Nigeria the leading light was Chief Abiola, a philanthropist who headed a number of foundations and kept abreast of developments within black organizations in the United States.

The question of slavery resurfaced both in the United States and internationally. In 2000 a class action was brought in America against the Aetna insurance company with which the bodies of slaves had been insured, as freight, when, in the nineteenth century, they were transported by rail from city to city in north-eastern United States. This lawsuit reminded the American public of the inhuman and absurd nature of slavery. One of the objectives of this stigmatization was to arouse repulsion on the part of the public toward an act that would be intolerable and unimaginable in light of current human rights criteria or mere common sense. The action against Aetna was the first in a series of lawsuits against many companies that had guilty links with the slave trade in their pasts.<sup>38</sup>

This American denunciation of an act committed on U.S. soil by American nationals was the prelude to a wider debate. During the 1990s, the UN mounted a series of conferences on major moral questions, such as the environment and women. This initiative was an expression, on the part of an institution seeking prestige and legitimacy, of a desire to meet the expectations of what the UN dubbed "global civil society." The Durban Conference of summer 2001 took place in the country of Apartheid. It brought together states and nongovernmental organizations to debate the causes and consequences of racism.



A large number of African countries, such as Nigeria and South Africa itself, indicated their intention to have the conference directly confront the racism that blacks had suffered throughout their history. One demand was unanimously expressed by the African states: the recognition of slavery as a crime against humanity. Because of its legal implications, Westerners were very reluctant to accept this demand, fearing that such a declaration would be used as a springboard for legal action. The second element of black grievance concerned reparations. The Westerners' fears were confirmed and this further stoked their hostility to the first demand. Moreover, within the African camp, for reasons both of personal considerations and the diversity of national interests, the various state representatives were split over the question of reparations.<sup>39</sup>

Several black lawyers made a direct demand for financial compensation. Human Rights Watch also sent its representatives to Durban. Though cautious in its approach, that organization wanted the question of reparations to be debated. Actions on grounds of slavery were targeted primarily at the United States. The communal demand for compensation directly hit the society, which, both by its legal system and by the organization of its social life, encourages compensation for historical injustices. Admittedly, the United States had already had to face actions from Native Americans. Demands for the restoration of lands belong, however, to a classic register that is familiar to Western states—among other things from the demands made by former colonial peoples against European states. Generally, when those lands are located in the colonizer's country, compromise solutions are found, in the form, for example, of subsidies granted to minorities. Where slavery was concerned, however, there was no precedent—except the recent agreements relating to forced labor—to provide guidelines for working out a form of compensation.

The African American demands struck a particular chord. The embryonic dialogue between the representatives of the American black minority and the African diplomats weakened the United States. The walkout of the American delegation from the Durban conference showed the world how diplomacy was deadlocked over these demands. Durban was the prelude to intense pressure being put on the United States again; among other things, the recognition of slavery as a crime against humanity inspired new actions in the American courts. At the international level, states such as Zimbabwe were at the forefront of the crusade, attempting to rally as many governments as possible to the cause.

This face-off between the descendants of the victims and the descendants of the slave-owners marked a turning point in the evaluation of the price of life and the compensation for death. The memory of slavery, buried away in American memory, resurfaced once more at the very core of the market, with the corporations and lawyers that were its protagonists. The African American activists, being determined to use their opponents' weapons against them, now launched their struggle against slave capitalism, while, in 1991, building workers happened upon the remains of twenty thousand slaves' bodies dating from 1790 in the Wall Street district of New York.

### **The Uncertainties of Calculating Hardship**

The question of slavery is of particular significance, on account of the gap separating the crimes committed and the moment when redress was demanded. At the diplomatic level, U.S. leaders and their representatives at Durban sought protection behind a policy of forgetting. They also pointed to the affirmative action measures intended to help the black community integrate into American society.

How were the descendants of a family to be compensated for one of its members being subjected to slavery two centuries ago? Compensation could be based on a principle of indemnifying against the exploitation the descendants of the victims might be said still to be suffering. Two family trajectories would have to be compared: that of a family with a slave among its ancestry and a similar bloodline that had no slaves among its antecedents. If Mr. Jones had not been a slave in 1790, his life would have been changed so radically that his most crucial choices would have been very different. The man would no doubt have had fewer hardships in his life. He would have lived differently and he would not necessarily, for example, have lived in the city where he actually resided. The economic and social fate of his descendants would have been different. He would not have frequented the same people whom he actually came to know as a result of his slave condition and he would doubtless not have started the same type of family. It is, as a result, logically impossible to compare these two types of trajectory for the purposes of potentially compensating the descendants of Mr. Jones's family; there is too great a distance between the two worlds, the possible and the actual. More precisely, if Mr. Jones had not been forced into slavery in 1790, his descendants would not have been born; the profile of the African American community would have been radically

different. We might even suppose that, if they had not been subject to slave status, African Americans would have left the United States.<sup>40</sup> And if slavery had never existed at all in the United States, there would be no African American community.

At the macroeconomic level, highly technical debates on slavery have become extremely polemical, particularly around the question of whether the slave economy in the southern states was profitable. Many historians and economists have clashed on this terrain and the prevailing consensus up to the 1960s was that it was not.<sup>41</sup> One of the standard works on the subject contests this interpretation and its authors, Robert Fogel and Stanley Engerman, reveal the full complexity of the problem.<sup>42</sup> This consists in imagining a southern economy without slavery, in order to determine whether the plantations made a profit greater than they would have by employing paid labor. The two economists take the view that slavery was profitable, not least because the slaves were motivated and less badly treated than their predecessors had thought.

These academic quarrels point up the difficulty of potentially compensating monetarily for slavery when the compensation is to be based upon the macroeconomics of slavery. If the profits were negligible or zero (or even negative), compensation cannot be based on the principle of unjust enrichment. Conversely, if Fogel and Engerman's arguments prove to be right, it would be possible to calculate an adjusted amount for the profits and base compensation payments on that figure. Here profit means the difference between the monetary gain made by the slave-owners and a virtual and virtuous (non-slave) southern economy. The two authors show that the slaves gave evidence of motivation and that they incorporated the bourgeois values of the Protestant ethic, while their economic remuneration was below the market rate (by a little more than 10 percent). This reasoning produces a highly detailed economic result. It does, however, turn out to be problematic to apply it to the issue of compensation. If, conversely, the slaves had entirely submitted to the slave condition (as men brutalized and alienated from their fate), the owner would not have made a profit and there would have been no wealth to distribute. The distribution of the unjust enrichment may be said, then, to depend on the productivity and motivation of the slaves, which tends to make their status closer to that of employee (Fogel and Engermann highlight the fact that the slaves were "rarely whipped" by their masters).

In spite of this reservation, and on the basis of this type of calculation, some activists assess the sum of reparations due at several trillion

dollars. Such a demand is not merely unachievable from an economic and political standpoint, it also raises many logical problems that go beyond the traditional disputes over the legitimacy of reparations between generations (when the descendants of the persecutors settle their ancestors' debts). For example, the North fought for abolition and there were blacks who owned slaves. And if national reparations were to be paid, African Americans would be paying with their taxes into a fund of which they would be the beneficiaries.

Hesitancy on the part of the potential claimants weakened the cohesion of the pressure exerted on the Westerners at Durban; it continues to exert a drag on the African American dynamic. There are clear differences in the interpretation of what is fair compensation. Where principles are concerned, a number of black leaders, academics, and political figures do not share the opinion of the Harvard law professors who were the most active in supporting these demands at Durban. This hesitancy relates to an unavoidable, subjective, anthropological dimension. Each individual interprets in his own way the relation to the heritage of suffering to which he is heir. For the African American activists, as for the Jewish lawyers, the compensation claim was synonymous with the strength that had to be shown by the communities they represent. The demand for compensation and, in particular, the confrontation with the descendants of the slave-owners, meant a liberation from the passive status of the victim who had to accept his fate; the victim would free himself from the determinism of a doomed destiny: the compensation demand amounted to a *theology of emancipation*. The liberation from economic hardship had a price.<sup>45</sup>

In the case of the Jews and the blacks, the debating of compensation for oppressed minorities prompted a fringe group within these two communities to oppose these financial demands. Like representatives of the various Jewish institutions in Europe, a black middle class in the United States backed their respective states' resistance to these demands by denouncing the illegitimate character of action against those who profited by slavery. These critics of reparations not only stressed the methodological difficulties of this crusade, but raised many objections to the principles underlying the claim; reparations not only came into conflict with affirmative action measures, but they would also undermine the liberal foundations of individual development by equating the individual with the passive "welfare claimant."

As the crime retreats further into history, it is also increasingly difficult for claimants to make good their claims: the burden of proof reverses. The leaders of African governments ran up against this

difficulty, as the hostile reaction to compensation on the part of some of their representatives attests. The president of Senegal made clear his refusal to see perpetuated a vision of the African continent as victim and to see black identity always being associated with the figure of the eternal recipient of handouts.<sup>44</sup> This reaction reflects how difficult it is to overcome *the claimant's shame*. Reparations would inevitably disrupt relations with Europe and America, and would once again call into question the principle and modalities of bilateral and multilateral economic aid.

Nationally, in the context of a claim leveled against America as a state, and at the interstate level, the demand for reparations seemed doomed to failure. Despite these dead-ends and the hesitancy of the victims' descendants, the African American demand for compensation did have a future. This developed at the point where domestic and international affairs meet. In spite of the very great resistance put up by the American government, the protest made headway by taking a market route and targeting the American or European economic concerns that had directly gained from the slave trade. The question then moved back into the national public space without necessarily involving a claim for monetary compensation from the state. Pragmatism prevailed in the legal actions against companies. There are fewer pitfalls in the field of microeconomic history than in the history of states: companies were more willing to come to an agreement with the complainants than were governments.

Liberalism and its virtue market celebrate mixed marriages. These mobilizations combine intellectuals from the enlightened bourgeoisie (Harvard professors) with Protestant ministers (from the churches of Harlem) and third-worldist sympathizers who set aside their Marxism in order to fight capitalism on its own terrain (the end justifies the means). The future is bright for these advocates—and converts to the pragmatic cause—of the value of money.

### Third-Generation Reparations?

Doesn't "reparations mania" lead to financial agreements that usurp the function of the legal system? There has been a new development in the treatment of victims, with the victims of terrorism now showing off their wounds and asserting their rights to compensation. Libya agreed to compensate the victims of a terrorist attack attributed to its services that cost hundreds of lives (a Libyan has been convicted of the crime)

and, in 2003, the UN embargo on that country was lifted. The payment by a criminal state of a sum meant to compensate for its crimes, the acceptance by European societies of a type of settlement that is more in the American tradition, and the role played by French diplomats in the defence of the interests of "its" victims are all proof of a major turning point: the new role of private law and para-diplomatic bodies in the generalization of reparations.

Western states incorporated this approach into their foreign policy. In accepting this change, they were giving in to a reality principle. There were urgent social demands for reparations. It is impossible to judge the state actors genuinely responsible for terrorism and it is not possible to make war against all the criminal states. Nor, for the moment, does the international legal system allow for the systematic prosecution of the sponsors of terrorist attacks. Private justice is a compensatory response produced by these various dead-ends.

After 9/11, in a move that was a sign of the times, the families of the victims who died in the collapse of the Twin Towers also pressed their rights to compensation. Two new dilemmas appeared. How to set about the matter of reparations without giving the victims' nearest and dearest time to reflect on the meaning of the loss they had just suffered (reparations in the 1990s had, by contrast, come many years after the event)? And how were the losses to the families to be evaluated economically, in the case of people whose financial statuses were so diverse? The evidence of these differences was clear for all to see. The lawyers of the wealthiest victims' families stressed that compensation had to be on a par with the economic losses the deaths entailed for the families concerned (on the basis of the victim's earnings and future earnings projections). The state had simplified the accounting; civil societies exposed the complexity of the exercise.

The difficulty of this undertaking emerges clearly when one takes into account the significance of national histories and the extent of cultural differences. Honor is an important variable in individuals' relationship with money, as is shown by a case that came before a Japanese court. Relatives of Sub-Lieutenant Toshiaki Mukai recently demanded thirty-six million yen from two newspapers, *Mainichi Shimbun* and *Asahi Shimbun*, for the libel they had suffered when these newspapers mentioned the role of one of their ancestors in the Nanking Massacre.<sup>45</sup> The critics were called to account for their actions on the grounds of the dishonor inflicted as a result of their alleged ignorance of history. This complaint is also based on the demand for moral well-being in democratic, capitalist societies. The victims complained of having

suffered both psychologically in their private lives and in their professional environment.

States and international organizations are both adapting as best they can to this environment. They have been dispossessed by civil societies of their prerogatives in respect of reparations<sup>46</sup> and take their lead today from both ethics and economics in their pursuit of moral and legal foundations for their utterances. In its Rome Statute, the International Criminal Court provides for reparations in the case of serious human rights violations.<sup>47</sup> State and legal authority is confronted with a major problem. Who will pay for this compensation regime? The market provides an answer to this question. Within a penal context, however, the dilemma is more difficult to resolve. The ICC plans to create a fund financed partly by those accused of human rights violations. It thereby sets itself up as legal and financial intermediary between the persecutors' bankers and the victims' representatives: the institution places itself at the site of the market transaction. These are the public effects of the privatization of international affairs; governments are becoming the accountants of death.

## CHAPTER SIX

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### *The Fear of Accountability and Calculating the Incalculable*

“Why didn’t you bomb Auschwitz!?” It was in such abrupt terms that an action was brought against the United States in a court of the District of Columbia in January 2001 by relatives of prisoners who had died in that concentration camp. They were demanding forty million dollars in reparations. Though this lawsuit had little prospect of success, it was nonetheless a stark expression of a deep-seated criticism of state decision-making. The state, the greatest liberator in what was without doubt a just war, was wrong.

In the 1970s and 1980s, several historians fueled this polemic without suspecting it would end up in court like this. The American decision not to bomb Auschwitz was at the center of many debates.<sup>1</sup> The questioning of that decision was based on denunciation of “the abandonment of the Jews”<sup>2</sup>: the Allies, it was said, had shown no concern for the fate of the Jews and the genocide had been ignored. The scope of such a finding was amplified by its moral resonance, particularly through the efforts of Élie Wiesel. His position was wholly unambiguous: “The world knew and...nothing was done to stop or delay the process.”<sup>3</sup>

To take a position in this quarrel between scholars and laymen requires a reflection on the meaning of death in warfare and its place with respect to the evolution of Western sensitivity to injury and loss of life. In a clumsy and often approximate form, the legal actions and public denunciations echo this questioning. During the Cold War, realism bracketed out such existential questions, which were confined mainly to a single area: nuclear war. International death is a theme no longer



restricted today to physicists, strategists, and peace campaigners; it has become a more wide-ranging question.

Thinking on death has assumed an accounting-based form that deserves to be questioned. The history of warfare is a tale of the use of bodies and raises questions as to the validity of sacrifice and the price of murder. It is hardly surprising in such a context to see a proliferation of various “black books.” A polemic on the crimes of Communism brought tempers to the boil<sup>4</sup> and a history of colonial misdeeds did much the same.<sup>5</sup> These horrific lists of bodycounts were positive indictments of the *raison d’Etat* that had wrought the destruction of human lives (table 6.1). They became the empirical proof of its pointless cruelty.

States find themselves cornered by these accusations and forced to justify themselves. The accusations are based on a discrepancy that lends them their force: the sensitivity to loss and death has evolved and indignation at death in warfare is, on the face of it, stronger today than in the past. Similarly, criticism of insensitivity has a greater impact. Complaint at the suffering embodied in death is, essentially, a denunciation of the insensitivity of cynical calculation. What are the foundations of this and what are its various phases? Toward what reforms of the regime of death does this indictment of the state lead?

### Death, a Realist Question?

“Kind-hearted people might of course think there was some ingenious way to disarm or defeat an enemy without too much bloodshed, and might imagine this is the true goal of the art of war. Pleasant as it sounds, it is a fallacy that must be exposed: war is such a dangerous

**Table 6.1** Deaths in combat in twentieth-century wars in which at least one Western state participated<sup>6</sup>

<i>Military death toll</i>	<i>War</i>	<i>Dates</i>
20,000,000	World War II	1937–1945
8,500,000	World War I	1914–1918
1,200,000	Korean War	1950–1953
1,200,000	Vietnam War	1965–1973
385,000	French Indochina	1945–1954
160,000	French–Algerian War	1954–1962
75,000	Abyssinian War	1935–1936

business that the mistakes which come from kindness are the very worst," wrote Clausewitz.<sup>7</sup> This thought is emblematic of *Realpolitik*, with which international relations were long identified.<sup>8</sup> *Realpolitik* profited from the long genealogy of a rationality that yielded neither to petitions nor to an inconsequential moral conscience. This story of the infallibility of calculation has come to be regarded as suspect today; it even attracts opprobrium.

Three references punctuate the progress of an idea that is in many respects erroneous: Thucydides, Hobbes, and Schmitt (Clausewitz is more an illustration than a pillar of this tradition). The tradition instituted by these three moments of political thought has been interpreted by the theorists of international relations and translated into practices on the battlefields. What is the architecture of this dynasty and why have its foundations been undermined?

These authors conceive the political as a body. For Thucydides, Athens is the body of the city state, for Hobbes the body of the political is the Leviathan,<sup>9</sup> and for Schmitt the *corps-à-corps* is one of the fundamental dimensions of the political. In the most common interpretation of Hobbes, where war and peace are concerned, the international is the scene of the tragic hand-to-hand battle between states. In the arena the "gladiator" states react to the natural violence of their environment; they are "like" human beings. Realist-inclined strategists and statesmen instituted an anthropomorphic figure of the state.

This totalizing thinking defines an asymmetric relation between the body politic and the human body, between the whole and the parts that make it up. This approach, for which Hobbes is the most complete model, is most particularly persuasive to realism. The principle of command is indispensable in the conduct of war; the whole is greater than the sum of the parts. If the parts die, the whole carries on living; the parts are called upon to sacrifice themselves for the whole. By contrast, the parts cannot do without the whole. This anthropomorphism presupposes a comparison between two life cycles. For realism, the state, just like man, is in danger. Yet if the leaders display reason, the state does not die; it is established on a lasting basis to sustain politics in a balance of power. Man, for his part, is terrified by death because he cannot be unaware of the laws of his finitude.

### The Transcendence of Patriarchal Reason

My soul is torn, but everything must be put to fire and sword, men, women, children, and old men must be slaughtered, and not

a tree or house be left standing. With these methods of terrorism, which are alone capable of affecting a people so degenerate as the French, the war will be over in two months, whereas if I admit humanitarian considerations, it will last years.

—*William II* in Robert Holmes,  
*On War and Morality* (1989)

The obligatory example quoted by many a generation of realists is the famous passage in the *Peloponnesian War* in which Thucydides recounts the clash between the Athenians and the Melians.<sup>10</sup> This confrontation between the strong and the weak is one of the canonical references in international relations thinking.<sup>11</sup> It mainly indicates the submission that must necessarily govern relations between unequals, without ever leaving scope for compromise. The passage narrates an ultimatum put by the Athenians to the leaders of the island of Melos. The Athenians expected their enemies to see reason. Given their indisputable weakness, their state would be defeated. Unless they wanted to sign their own death warrants, the Melians should surrender. Consequently, after a siege that posed few major problems for the Athenians, the island's inhabitants were put to the sword (the men) or carried off and sold into slavery (the women and children).

This text is tantamount to a manifesto and it represents proof for *Realpolitik* of a genuine scientific logic of war. At no moment do the Athenians take the view that their ultimatum is unjust; their security depends on their intransigence. Thucydides's account echoes down the years; it also has force of law in the palaces of the rulers, who interpret his message as follows: the statesman must forearm himself against the aberrations of an irresponsible virtue.

The twentieth century was characterized by a period of extreme violence, the key milestones of which were the two world wars and the totalitarian massacres. The Western state is the legatee of realism. This mass violence was facilitated by a technological leap forward in the field of weaponry and the industrialization of killing. If we take the period that includes the two world wars and the wars in Indochina and Algeria, the idea that there was absence of restraint would seem to be justified. The normative consequences were serious. By intellectually sanctioning the unlimited use of force, this intuition and tradition established the "cold monster" in its role as global policeman. Such ideas ennoble the notion of human sacrifice on the battlefield. In the name of reason, the calculation of mass murder is legitimated; terror seems rational.

Hobbes translated Thucydides. The parallel between these two authors is particularly significant when it comes to matters of security and the measures employed by the strong to protect themselves from potential attacks by the weak. Both take the view that it is dangerous for the state to compromise.

Hobbes is very clear about the terrible punishment that should be meted out to troublemakers. He opts without any ado for a totally indiscriminate approach: once the decision has been taken to do battle, then "the Sword Judgeth not"; there can be no "Distinction of Nocent, and Innocent."<sup>12</sup> Where their responsibility is in doubt and assuming a civil war that would disrupt the republic, the Leviathan knows no restraint. This violence also crosses temporal barriers, an exigency that speaks volumes for Hobbes's resolve in this regard: the rebels' descendants are to suffer for the errors of their ancestors' ways.<sup>13</sup> The Leviathan affords itself the time to exert its legitimate vengeance.

This is a surprising passage in Hobbes, as normally, where the maintenance of order is concerned, he advocates a rational coolness that involves a degree of restraint. The murder of the children of the rebels has, incidentally, two things to recommend it in his view. It demonstrates the insensitivity of the Leviathan and may be said to function as a deterrent. Moreover, it forms part of a vision of relations between generations. Those who refuse to submit to the Leviathan are rebelling against authority; they are politically dangerous. In their role as fathers, it seems unlikely that they will be good models for their children. Most probably, their children will inherit this fault, which they will hand on in turn to their progeny. The Leviathan stands in for the defective father; it stamps out a lineage that is harmful to the political order.

Carl Schmitt was a great admirer of Hobbes, and the age in which he spoke and wrote makes this philosopher an interesting link in the chain of *Realpolitik*. The figure of Schmitt is a paradoxical one, since he rehabilitated a Hobbesian conception from within the field of law. His thought is close to the amorality advocated by realism, whereas *Realpolitik* is the traditional enemy of international law. Just like Hobbes, Schmitt accords predominance to the question of death. For Schmitt, death is the political relationship par excellence.<sup>14</sup> Faithful to a German tradition that foregrounds, as do Max Weber and Hannah Arendt, the public dimension of social phenomena, Schmitt gives a noble, and hence public, meaning to the supreme political act that is death in warfare. When it takes place within the context of a war between states and not in guerilla war, death crowns this tragic moment of international political life.

Death for Schmitt is not simply sublimated on the altar of the state. It is positively glorified. It cannot in any way be subjected to a moral critique. Schmitt violently denounces the intrusion of a humanitarian law of nations that is likely to do harm to grand politics. However, this construction turns out to be precarious, particularly because of his fierce hatred of liberalism and the possible contradictions that hatred entails with regard to Hobbes, and it is, in many ways, shocking on account of its numerous anti-Semitic references,<sup>15</sup> reminding us of its author's compromises with the Nazi regime. In his writings Schmitt provides an intellectual underpinning for total war; he quite simply anticipates the bestiality of the war that is to come.

Despite this "uncanny aspect," Schmitt does cast light on one essential element. Indirectly, he underlines how the state counts its dead and prides itself on the number of those it has put into the field of battle. Sacrifice for the fatherland is the ultimate assurance for a state, whose greatness rests on its anthropophagic capacities. State power connects here with a Hobbesian anthropological fact: the role of the father within the family and his power of life and death over his children.<sup>16</sup> Schmitt understands the foundations of an authoritarian state, which, like the father, can put to death those who make up its community: he puts the finishing touches to the realist production woven around the figure of the "cold monsters."

The transcendence of the state feeds off the transcendence of the father. Just like the father, who puts his children to death to indicate his determined, insensitive, and invincible character to his enemies (so long as he lives, nothing can make him bow the knee), the state sacrifices its citizens in order to stand up to its enemies. Schmitt is equally faithful to the philosophy of Machiavelli when the latter evokes the story of Brutus. The supreme insensitivity, the murder of his children by their father, may be said to be decisive proof of the determination of this *paterfamilias*.<sup>17</sup> For a leader this is a great political resource. Just like the father who has killed his children or, like Chronos, devoured them, this figure from the outer limits of a monstrous solitude signifies steadfast power in the eyes of the world.

This coldly calculating conception brings us back to history. In the context of MAD (Mutual Assured Destruction), the nuclear confrontation presupposed communication between the nuclear powers. Acceptance of the sacrifice of their civilian populations as part of total war was the element implicit in the messages they sent out to each other. The state placed human life in danger, knowing there was perfect symmetry. If it were attacked, it would not fail, in turn, to annihilate its

enemy. Fear is, anthropologically, the mark of man; the state may be said to have domesticated this fact through reason. It based its model of security on the certainty of a rational fear.

### The Three Critiques of Realist Reason

Realism has had to face criticism, and death has been the main question around which the polemic has been structured. These criticisms originate in various different traditions. Several have their origins in “just war” arguments, while some belong wholly to a modern tradition of the doubting of authority.

#### The Critique of Strategic Reason

States are stigmatized for their reckless use of weapons. Let us take the example of World War II. Did the terror bombings obey the rules of reason laid down by realism? Did reason prevail in Allied strategy during World War II? It was the aim of the bombing of Germany and Japan to terrorize the enemy, mainly by making their civilian populations suffer: Tokyo and Dresden were severely tested in particularly bloody raids intended to “sap the morale of” these two nations.<sup>18</sup> In opting to strike hard against German cities, Churchill was gambling on weakening the German army on the Eastern front by demoralizing its soldiers. The rational calculation of terror was based on a mass psychology. This equated the national community with a suffering, emotive body; the hand that fed it was to be cut off in order to throw its avenging arm out of joint.

*Realpolitik* has been criticized on two counts. It is a policy that transgresses the legal and moral rules of discrimination between soldiers and civilians. The weapons were, in this case, used intentionally against civilians and the deaths inflicted cannot be regarded as collateral damage. The action is all the more immoral for the fact that the Allies were directly using civilians to destabilize a state.

U.S. policy has also been challenged in respect of that country's decision to use nuclear weapons. Given the information the Americans had at the time, was it essential to resort to the bomb? The critics of the American decision have sought to prove that passing an irrevocable, instantaneous death sentence on more than one hundred thousand people<sup>19</sup> was not necessary.<sup>20</sup> Admittedly, several studies indicate that the Japanese army was extremely determined to fight to the very last in

1945.<sup>21</sup> However, the Americans did not take into account the possibility of creating a naval blockade with a view to a landing. In the opinion of American politicians and military men, this solution had three disadvantages. It would expose the American army to battle again—though limited battle, it must be said, given the scarcity of Japanese resources. It involved engaging in what might have been lengthy fighting and the outcome would certainly be less immediate than the nuclear option. Lastly, if the United States had foregone this show of force, they would have failed to demonstrate to the whole world their superiority and their will to power. The display of military and strategic superiority won out over the obligation to exercise restraint and implement the principle of discrimination.

An extension of these critiques also takes issue with the lack of pragmatism shown in these decisions. Paradoxically, realism and its military strategists may be said not to have made adequate use of reason. Would the war not have been won earlier if strikes had been targeted exclusively against German military installations? Would it not have been better to win the sympathy of the German population rather than decimate it? Didn't use of the atom bomb prompt the Soviet Union to join in an arms race? These criticisms bring out other universes of rationality and pose problems for realist theories of war on at least one point: evaluation of the reality of violence and war is not the prerogative of those in power alone. The criticism is founded on a calculation-based reasoning: it is up to those in power to minimize suffering.

### *The Critique of Patriotic Reason*

Denunciations of historical injustices connect with critiques of state *raison de guerre*. The case of U.S.–Japanese conflict is significant again here. During the 1980s, the American state acknowledged the wrong done to Americans of Japanese origin interned in camps on U.S. soil and in 1988 made individual compensation payments to them.<sup>22</sup>

The memory of useless suffering demanded or justified in the name of the fatherland is reflected in the view now taken of World War I. Debates aimed at rehabilitating the memory of the victims of firing squads have accompanied the November 11 commemorations in France, Britain, and Italy, and the Allies have been stigmatized for their unjust intransigence.<sup>23</sup> With the global context of repentance aiding and because of a crucial discrepancy between past intransigence and the new way war is viewed, these critics have forced states to review the

cases of those condemned to death and to show respect toward them (to their graves and their descendants).

This sensitivity to state killing grew in significance at the point when a global campaign against the death penalty was developing. The arguments employed by the abolitionists were reaching a wide audience. Capital punishment, they argued, is useless because it is no deterrent. It is cruel treatment of the human person: before being executed, the condemned man is subjected to a suffering that is both psychological (waiting in the antechamber of death) and physical (the lethal injection is not, it seems, "painless"). The legal system makes mistakes and hence is at times guilty of murder. These facts also served to reinforce international denunciation of the absurdity of patriotism.

*The Critique of Rationalist Reason*

They [nations] put forward their interests in order to be able to give reasons for satisfying their passions.

—Sigmund Freud

By unmasking the irrationality of rationality, the growing skepticism toward armies and their civilizing mission deconstructed the operations of reason that justified the use of weapons. Recourse to technology—and its very nature—became matters for debate. The evolutionary vision celebrating technology as a vehicle of human progress was seriously undermined in the early years of the twentieth century. In the 1914–1918 conflict, the use of gas provoked an outcry. For the first time, at a point when psychoanalysis was attempting to press its case against psychiatry, war traumas became public health concerns. A number of soldiers came back from the front traumatized, with pathological symptoms that traditional medicine found difficult to treat. A social phenomenon was growing by the day; flooding into the military hospitals came the survivors from the trenches, both the shell-shocked and the gassed. For the medicine of the day there very soon arose the question of the treatment of these traumas and, with it, how to distinguish between their physiological dimension and the psychological consequences of war. Was the suffering soldier a hypochondriac? During the war, traumas were most often treated by electric shock therapy. At the end of the conflict, Freud sat on a commission that had to pronounce on the usefulness of such a measure: the etiology of war neuroses was born.<sup>24</sup> Delusions of grandeur were, they said, a destructive human illness.



The inhumanity of technology took off as a theme and the critics' analyses were quite clearly confirmed by the nuclear blasts of 1945. Technology came to be seen as a double-edged sword, an instrument capable of plunging humanity into regression and barbarism even as it increased our knowledge and capacities. This critique of technology was reinforced by a Romantic, Heideggerian approach to the forgetting of Being.<sup>25</sup> Skepticism and ecological thinking or the critique of the *cogito* deconstructed Western rationalism.

Western states were said to be the heirs to a perverse, lethal imagination. This was the diagnosis made by those who denounced "reason of state" and "reason of war" as mystifications. The fascination with death was said to be part of man's innate nature. The revelation of the death drive was the proof of this natural inclination to war. Psychoanalysis, which boomed in the second half of the twentieth century, did its demystifying work.<sup>26</sup> This culture of suspicion induced a specifically political thinking on war; the battlefield was shown up as a scene the soldier was eager to discover. War was an adventure; this interpretation connects with considerations on the Middle Ages or the Renaissance and the habits of its seignorial classes. More generally, war was seen as an illusion maintained by governments and made possible by human nature: generations of soldiers had been led to the battlefield with such ease as a result of their desire to participate in the theater of war; it was said that a "scopic pulsion" drove them to it.<sup>27</sup>

The state was governed by neurotics. Their peculiar characteristics led them toward government as a calling and drew them into the lyricism of war. Interests were masks for passions; Western rationality, of which realism is doubtless the most achieved political form, was demystified. Nor was the most unrestrained idealism spared. Psychoanalysis pressed on with its work of exposure. Freud and Bullitt were not mistaken in laying President Wilson down on their virtual analyst's couch.

These arguments came back in the form of a vulgate that led to an indictment and a reversal. States were no longer repositories of reason. Amoralism was absurd and repentance had to take precedence. The decade of repentance that followed the Cold War was one of the culminations of these repeated attacks on instrumental rationality. The *theatrum mundi* was theological: heads of state and priests spoke up and performed acts of repentance in the name of their institutions, incarnating a body both political and religious. In its ceremonies of contrition, repentance stigmatized insensitivity.

States continued to be the incarnations of the social body, whether political or religious. While Hobbes asserted the legitimacy of a

vengeance extending over several generations, repentance required that contrition should be a symbolic debt that also transcended generational boundaries. At last, the era of repentance picked up on the intertemporality laid down by Hobbes, while at the same time transfiguring the role of the state. The victims of vengeance were to be entitled to compensation in the form of a recognition on which virtually no time limit was set. Constrained, pressed, and time-worn, the Hobbesian state has quit the pose of accuser and assumed the role of accused. Realism is based on an anthropomorphization of the political, and repentance extends and reinforces an identification between the institution and the human body. This clumsy critique is making headway now in public space by mobilizing the accountants of unreason's liabilities. To understand the scope of this phenomenon better, we must explore the moral evaluation of wars in the age of risk.

### Is Death Dangerous?

"We are about to demand a soldier's death without any reconciling emotional equivalent for the lost life. If the soldier's death in action—not to mention the citizen's death in bomb-struck cities—is deprived of any idea encompassing *humanitas*, be it God or king or *patria*, it will be *deprived also of the ennobling idea of self-sacrifice*. It becomes a cold-blooded slaughter or, what is worse, assumes the value and significance of a *political traffic accident* on a bank holiday." So wrote Ernst Kantorowicz in 1951.<sup>28</sup> And Tom Lantos, the chair of the U.S. House Committee of International Affairs, said in 1994: "The peculiarity of foreign policymaking in the post-cold war world, is the assumption that while everybody says that it is a dangerous world, there is an almost total unwillingness to accept costs, risks and sacrifices . . . I am wondering if it is *realistic* for a superpower, however much it cherishes the life of every single individual, to conduct an effective foreign policy where the *underlying criterion is dangerous*."<sup>29</sup> Kantorowicz's is a premonitory vision. As for Lantos, he eloquently denounces the damaging effects of an enormous transformation of war, of which the no casualty doctrine—the minimization of losses of Western coalition soldiers—is one of the most significant aspects. The various military interventions of the last decade have at least this feature in common. Western armies—mainly the American U.S. army (table 6.2)—have suffered far fewer losses than in the past. There is a notable difference here from the

**Table 6.2** U.S. fatalities in wars in which the United States has taken part and in American interventions (1945–2000)<sup>30</sup>

World War II (1941–1946)	405,399
Korea (1950–1953)	36,913
Vietnam (1964–1973)	58,177
Lebanon (1983)	265
Grenada (1983)	19
Panama (1989)	23
First Gulf War (1990–1991)	383
Somalia (1992–1994)	43
Bosnia (1992–1995)	3
Haiti (1994–1996)	4
Kosovo (1999)	2

world wars of the first half of the twentieth century and the conflicts in Indochina or Algeria. There is, in fact, an enormous gulf between the two worlds. Despite the solemn warnings of President George W. Bush on the eve of war against Afghanistan calling on his country to prepare for sacrifice, the number of American lives lost was remarkably low. In Afghanistan, they were mainly the product of the poor handling of some equipment; there were also accidental casualties from “friendly fire.”

How can we explain such a radical change in the conduct of armed conflict? For many observers, the no casualty doctrine can be said to reflect the natural inclination of the democracies: the predisposition of their citizens to comfort and their aversion to uncivil brutality. This Tocquevillian interpretation brings out the radical difference between the democracies, which regard loss of life as unbearable, and the regimes these democracies fight against in their military interventions—regimes that can permit themselves, without a blinking an eye, to send a substantial section of their population to their sacrificial deaths. From the Western perspective, two ideal types and two normative interpretations of self and other might be said to be in opposition: there is a face-off here between the democrat, who is (too) respectful of life, and the sanguinary, self-sacrificial pariah. This type of distinction would be part of the explanation of the modalities of confrontation between the Americans and the Japanese in 1945; the same applies to the conflict between the Israelis and the Palestinians.

**Who's Afraid of the Hereafter?**

This observation is not sufficient in itself. Contrary to what these arguments might suggest, the reason for the gap between the two has more to do with the political structure of Western states than any recent development within their societies. The state faces potential critics and its leaders feel a sense of insecurity. The mobilization against the Vietnam War and what it represents as a symbol (useless losses in the name of an unjust war) have fostered a cautious approach on the part of the state. Whereas no opprobrium is attached to the sacrifice of hundreds of thousands of American soldiers in World War II, the spectacles of the Korean and Vietnam wars still weigh heavily in the American history of warfare.

Statesmen find themselves in a paradoxical situation. Governments no longer believe in the "grand narrative" of the tragic death of heroes. Despite the speeches attending American declarations of war and the revival of a certain patriotism, the facts attest that this patriotism does not imply any great sacrifice for the fatherland. The operations carried out in Afghanistan and the rejection of a policy of ground attack in crucial battles (at Tora Bora where Bin Laden was supposed to have taken refuge) are proof of an indecisiveness on the part of government and, ultimately, of a refusal to sacrifice soldiers' lives.

Government responsibility and, more particularly, the responsibility of American decision-makers, submits to the requirement to protect lives: that requirement is a rallying point in increasingly risk-obsessed democratic societies.<sup>31</sup> Quite clearly, the professionalization of armies and the end of conscription reflect a contractual relationship to danger and to the exposure of bodies to risk. Defense is delegated to specialists and this operation frees the democratic individual from a thankless, downgraded task that deflects him from his aims of performance and fulfilment.

Everything would tend to suggest that Western armies have responded to a more or less explicit social demand imposing the minimization of losses in war. Despite the legitimacy of some interventions, it might now be said to be difficult to impose sacrifice of human life on a national community. In such circumstances, armies are merely reacting to society's demands. Because of the memory of the Vietnam War and other conflicts condemned as unjust—such as France's Algerian war—Western politicians would seem to have decided no longer to expose their armies to pointless risk. Military culture would seem to have adapted itself to civil society and its demands.<sup>32</sup>

This is an alluring interpretation, but it rests on an unproven assumption: that, in Western societies, most particularly America, individuals are no longer prepared to sacrifice their lives for their country in armed conflict. The state would here be anticipating a demand on the part of its population: the caution of governments would be based on the fear of the governed (their lack of valor or their egoism).

How do things really stand in this regard? Is there a point beyond which the members of a Western society would no longer support their governments? The traditional problem of intervention takes the form of a dilemma. Interpretations of the no casualty doctrine are based on speculation that two things are true. On the one hand, there might be said to be a “threshold of tolerance” of death within Western democracies and, on the other, that threshold would be considerably lower than in the past. This public problem and its definition in terms of a tolerance threshold are direct heirs of the nightmare of Vietnam and the wave of protest sparked by that war. An entire generation of Americans bear the scars of that conflict and the historical experience has left them with proof that their government was capable of a decision of monstrous absurdity. This critique of monstrousness focuses particularly on the loss of human lives and the body count, both on the North Vietnamese side and among American ranks. Confronted with such a criticism, Kissinger gives expression to this protest:

As casualties mounted, the critique of American foreign policy shifted from challenging the effectiveness of the policy to questioning the necessity for it—an assault on the worthiness of America’s Vietnamese ally to challenging the worthiness of America, not just in Vietnam but globally as well.<sup>33</sup>

The generation that mobilized against the Vietnam War are in positions of power today, particularly in the media. It is hardly surprising, then, that the issue of the threshold of tolerance to combat deaths has come to the fore among the population. The ethics of the present is conditioned by the memory of the past.

The example of the media coverage of American losses during the intervention in Somalia is interesting. In 1993, the spectacle of the bodies of American GIs being dragged through the streets of Mogadisciu had a very substantial emotional impact in the United States. The media are players in war-fighting policy. Given the reaction to that news, the various press outlets and TV channels suggested, supported, and sustained the thesis of a refusal to accept deaths. What American would

have chosen to subject one of his own to such a fate? The violent ghost of Vietnam resurfaced. Following the death of the eighteen soldiers, Les Aspin, the secretary of defense, was forced to resign. His conduct was deemed negligent, since he had failed to resupply the troops with arms. His negligence came to be seen as unforgiveable: he was implicitly held responsible for the death of the soldiers.

A more thorough study of the sensitivity of the American population to the loss of human life in war leads, however, to our rejecting the thesis of a minimal tolerance threshold that could be regarded as the expression of a potential demand on the part of the American population, or the reflection of such a demand. America's reticence to sacrifice its soldiers requires a different explanation.

There have been several studies gauging sensitivity to the loss of human lives as expressed within that country's population. Indeed, Peter Feaver and Christopher Gelpi have studied the relationship between the number of combat deaths and the support for war (table 6.3).<sup>34</sup> Their findings seriously challenge received opinion. This analysis differentiates between three categories of the population—the military elite, the civilian elite, and the general public—and questions members of each about the number of deaths they would regard as acceptable in the event of major conflicts with regional powers. In the case of war against Iraq, a substantial number of losses would, a priori, be acceptable to the American general public. This is much higher than the current body count of American soldiers in that war. Within the civilian and, most importantly, military elites, the figures are lower. Tocquevillian man is less averse to patriotic sacrifice than are the military.

With this, the thesis of an a priori civilian refusal to back lethal wars collapses. It is, admittedly, possible to have reservations about the

**Table 6.3** Summary statistics for acceptable casualties for *Realpolitik* and interventionist missions. Survey of the American population by Feaver and Gelpi<sup>35</sup>

	<i>Active duty military</i>	<i>Civilian elite</i>	<i>Mass public</i>
<i>Realpolitik missions</i>			
Defend South Korea	21,144	19,057	—
Defend Taiwan	17,425	16,519	—
<i>Interventionist missions: humanitarian intervention, preventative war, antiterrorism</i>			
Democracy in Congo	283	357	6,890
Human rights in Kosovo	1,061	4,237	—
Iraqi WMD	6,017	17,008	29,964
Terrorism	6,580	9,142	—

difference between a poll that assesses intentions and beliefs, and a genuine war situation in which individuals would be directly confronted with the death of their soldiers. Despite criticism of the use of poll evidence in the social sciences and of the scientific value of polls, the information provided by Feaver and Gelpi is crucial to our understanding of the reinvention of an ethics of war. Whatever their predictive validity so far as real situations are concerned, these studies show that the population is *prepared* to see its country pay the price of a substantial number of victims in the event of a war that is justified on grounds of national security. Potentially, when necessary, sacrifice would seem to continue to make sense.

The no casualty doctrine signifies a reticence and caution that are imputable *primarily* to American governments. The Leviathan opts for prudence. The various American governments of the last fifteen years have forearmed themselves against potential criticisms based on the number of American victims occasioned by the various conflicts. The Leviathan is afraid of the sacrifice it would have to impose on its population; it anticipates criticism when there is not necessarily any basis for it. The myth of a disjuncture between a government indifferent to the suffering of its population and a humanistic society in thrall to democratic comfort no longer holds water. On the contrary, the Leviathan is afraid of having to be accountable for its actions and sidesteps the issue by constructing, or exaggerating, a critique that may not necessarily exist.<sup>36</sup>

The history of American losses is strewn with paradoxes. The current policy of the government of George W. Bush is a patriotism without heroes. In a country where a very great majority of the population claim belief in God, its (very fervent) president is surprisingly cautious. Why is the classical equation between transcendence, patriotism, and heroism no longer valid?

### The Twilight of the Gods

Schmitt rightly conceives death as the political relationship par excellence, taking the view that the main political concepts, such as sovereignty, are secularized religious notions. The religious foundation of the state gives body to military policy. However, the secularization of war is far advanced in America, and it is so in spite of intense religious belief. This decline of death-based religion produces some reticence. The leaders are perplexed by this conception of risk; it implies that

they have to revamp their political agendas and show a moral imagination of which they are sometimes bereft. Some intellectuals have also expressed their confusion. Reacting to the way NATO conducted a war he approved of, Michael Walzer took the view that the Western airmen bombing Serbian towns to liberate the Kosovans did not take enough risks.

Everyone has grappled with his unhappy consciousness. Strategists such as Edward Luttwak do not want a return to heroes. On the contrary, American strategy should, in their view, choose the path of caution; the absence of deaths in the wars in which the United States might engage is an imperative the government has to strive to attain. And the American state would be ill advised to engage in wars when its vital interests are not at stake.<sup>37</sup>

This voice has been only partially heeded and a certain compromise has prevailed in the most recent conflicts. In the war against Iraq, the American army fought a ground war when it could have made more intensive use of air power (and, in that way, keep itself safe from retaliation). In the age of the twilight of the gods, this peculiar civil religion of the dead is unintelligible unless we take account of the status ascribed to the adversary. The revolution in international death is a play of mirrors between self and other.

### The Sword and the Caduceus

The caution of the Leviathan is the mark of a particular exigency with deeply Wilsonian overtones. Unilateral or multilateral power feeds on the exemplary nature of its political model. Wilson had a grand design for America: to produce meaning so as to produce global adherence. The conversion of the world to democracy was the objective behind the promotion of American exemplarity; global stability around a democratic (and hence attributable) hub was the ultimate aim of this project. The United States has never abandoned this ambition; it is still trying today to win the consent of the friends or partners to whom it addresses itself. The conduct of the Iraq war by George W. Bush is, to some degree, exceptional. However, the American administration did attempt, nonetheless, to gain UN backing for the war and it has the support of some states. There are complex workings to this game. When America goes to war, whether or not that war is supported by its Allies, the outcome of the fighting cannot be in doubt. On the other hand, the moral victory is more uncertain.



The Kosovo war is the prime example of the challenge of a war-fighting policy that the Western states, and America in particular, had to overcome. What, it was asked, were the hidden intentions of the cold monsters? Where was the “Balkan oil”? It has to be said that, in spite of two major marks of virtue—the reaction to mass crimes and the rescue of non-Christians by a coalition of Westerners—the morality of the intervention against Milosevic was hotly debated and the war was not universally supported. The question of the legitimacy of intervention is doubtless one of the most crucial questions in warfare. How is one to be unassailable when one attacks?

The criticisms underlying this question and the justifications formulated by way of response are articulated around a variable that is easily measurable: death. Death becomes a criterion that is endowed, from the outset, with great universality. It has resonance in every culture. Its various social and cultural significations have many common aspects across the Western world. Death is a unifying criterion since it stands at the point where morality and politics meet. This is why it is so commonly used in the evaluation of wars. A number of Western states take the view that the refusal to sacrifice their armies is crucial to organizing their moral defense. The demand not to massacre the population of the opposing camp is a second requirement. When we compare these military interventions to the various twentieth-century conflicts in which America was involved, the number of civilian (table 6.4) and military dead in the enemy camp is lower today than in the past.

It is, admittedly, impossible to compare the level of engagement of the Allies in World War II with the Western nations’ commitment in the Gulf War. In the one case, the terms of participation in the conflict were defined by the rules of total war. In the other, the limited-war imperative set the tone for the strategy of that asymmetric conflict. From the strategic viewpoint, the comparison between the Korean War, in which more than a million died, and the Gulf War shows itself on the other hand to be more legitimate.<sup>38</sup>

The dominant party takes the view that they are judged in terms of a twofold cost: the very high cost of the loss of the lives of their soldiers and the more affordable cost of the number of deaths inflicted on the adversary. The first element of this division of the world is a quasi-categorical imperative, to which the second is subordinated.

Making war conforms to a logic of the maintenance of order, guided by a rational conception of loss. What is the content of this precautionary ethics? It is based, essentially, on a warrior code that provides the

**Table 6.4** Aerial bombing since 1945 and civilian deaths<sup>39</sup>

<i>Target</i>	<i>Dates</i>	<i>Tonnage</i>	<i>Civilian deaths</i>	<i>Deaths per ton</i>
Britain	1915–1918	<300	1,413	4.71
Guernica	April 22, 1937	40.5	1,654	40.83
Britain	June–Dec 1940	40,885	23,002	0.56
Coventry	Nov. 14, 1940	533	568	1.06
Hamburg	July 24–30, 1943	5,128.12	42,600	8.03
Dresden	Feb.13–15, 1945	7,100.5	25,000–60,000	3.52–8.45
Tokyo	Mar. 9–10, 1945	1,665	83,793	50.33
Hanoi/Haiphong	Dec. 18–29, 1972	20,000	1,623	0.08
Iraq	Jan.–Feb. 1991	88,500*	3,000**	0.034
Yugoslavia	Mar.–June 1999	6,303	488–527	0.077–0.084

\* Includes tonnage dropped on Iraqi forces in the field.

\*\* Approximate figure.

basis for a patriotism without heroes.<sup>40</sup> In their desire to present an example to the whole world, the leaders of the United States are attentive to the norm of discrimination between civilians and combatants. This rule of just war is most often combined with a principle of proportionality: the number of dead on one's own side and on the enemy side must be proportional to the anticipated outcome of the war. These principles establish rules of restraint, even though firepower is far superior to what it was in the past and armies are increasingly unequal.

The war-maker is anxious because of the demand for legitimacy bearing down on the body politic. The global game is fluid. The power of Western coalitions brings together the forces of a global order that has always to be justified, so as not to weaken existing alliances and to continue to bring in new support. Given this, it is hardly surprising to see this moral discourse and death-count having its place on the terrain of war. The state is under pressure to take account of a necessarily subjective vision that makes life-and-death calculations. The pariah acquires considerable nuisance power. Politically, he loses a war that he cannot win on the battlefield, but he is able to win transnational sympathy. America has had to defend itself morally against the consequences of its attack on Iraq; by his sacrifice, Saddam Hussein undermined America's moral credibility. In a unilateral situation, this loss of legitimacy has a cost that is all the higher for the *hegemon*. Wars are doubly asymmetrical: the political asymmetry is a product of the inequality of firepower, the moral asymmetry is fueled by sympathy for the underdog, sensitivity to hardship, and the revival

of third-worldism. In some cases, the political and moral asymmetries are in inverse proportion to one another.

During the war against Afghanistan, American planes dropped bombs and distributed food parcels. This nurturing warrior is a lawman doubling as nurse. Has war been transformed here into a medical operation? To prove its virtuousness, the army has no other recourse than to use "surgical strike weapons." Military theory and practice vaunt the precision of their bombs the way medicine talks up the latest discoveries in the way of pain-free operations.

Legitimacy depends on the ability to face down criticism. Like the surgeon, the state has a reputation and that reputation must inspire confidence. In many ways, state institutions are themselves primarily responsible for this shift in the way their competence is assessed. The discourse of war has left the political and military arena and has come to be shaped by law and morality. The justification for the wars of the post-Cold War period draws its main sources of inspiration from the medical register. While the rhetoric of intervention on humanitarian grounds is in the ascendant, war is couched in the language of rescue. The campaign to come to the assistance of the Kosovans is the prime example of this type of conflict. Moreover, some interventions are now justified *ex post facto* by humanitarian considerations, whereas their initial objectives were, on the face of it, entirely different. The war against Afghanistan may thus find its place one day in the pantheon of just wars that have delivered a defenseless population from the grip of barbarism. It is the effect of memory to reinforce the construction of this model.<sup>41</sup>

Does the precision of military strikes guarantee precision in war aims? While military strikes have become more precise, there has been less and less clarity in the underlying motives behind wars. Though the rationality of military strategy is not to be neglected, wars are no longer justifiable on grounds of that strategy alone; human rights have disrupted strategic reason. The confusion generated by the juxtaposition of these two registers finds expression in a blurring of the objectives of military intervention. There is greater suspicion where belligerents are concerned. The cold monsters are suspected of concealing their misdeeds and the state is under pressure to come clean about its most repressed intentions.

In phase with an unprecedented criticism of decision-making from within Western societies, America, and the UN system have gone along with this movement. While in many ways it represents an advance for humanity, a danger hovers over this moral construal of politics.

Two problems pose a threat to it. On the one hand, words of repentance pose a major problem when repentance is confined, on the moral plane, to declarations that are insufficiently clarified. On the other, this approach turns out to be potentially dangerous, since it might underwrite a model of collective guilt, the effects of which are very largely harmful. The quagmire of collective guilt, along with that of national unconsciousness, the magic of this murky theological–political incarnation, afford expression to the most inhibiting resentments. The only way out is to breathe new life into thinking on collective responsibility.

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PART 3

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*The Two Challenges*

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## CHAPTER SEVEN

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### *Shared Responsibility*

International affairs are now subject to unprecedented scrutiny. Increasing numbers of moralists are engaged in such work. To make themselves heard, these voices have to win a place for themselves in a highly competitive universe, clearly decentered from the prism of the state. This competition requires the handling of increasingly specialized knowledge, the ability to establish links between various form of expertise, and the capacity to organize these around general questions of concern to a broad audience on the basis of each individual's consciousness and capacity for indignation and commitment.

These adventurers of justice have, then, to reach and exceed various levels. Their initial objective is to be credible. The second stage in this competition to define the just and the good is to assert a plausible interpretation of reality. Their ambition of reaching a mass audience leads them to seek an original interpretation of the facts of international affairs, as generally reported by the media. The aim of this work is to publish the most convincing assessment. In its practical execution, this discovery of a probable truth aims to be both thoughtful and provocative.

In 2002, in the context of a vast military operation against the Palestinians following an unprecedented wave of suicide bombings, the Israeli army laid siege to Jenin and entered the town. With the battle raging, more violent by far than the other clashes, several voices were raised against the Israeli army's crimes. These criticisms came not only from Palestinians, but were also expressed with particular virulence in Europe. Morally, the battle of Jenin became a symbol of Israeli cruelty and Palestinian martyrdom. Politically, it was identified as a *massacre* carried out by the army; some spoke of it as a crime against humanity.



Shortly afterward, Human Rights Watch produced a report on the fighting at Jenin.<sup>1</sup> The NGO concluded that the army had indeed committed abuses of international law and acts that could be regarded as war crimes. The Israeli army, it said, had not shown sufficient discrimination; its soldiers had bulldozed civilians' houses. On the other hand, there was no question of seeing the battle of Jenin as a *massacre*, still less of applying the concept of crime against humanity. Whereas the first estimates of Palestinian dead spoke of three thousand victims, then five hundred (as appeared in the newspapers), Human Rights Watch counted fifty-two dead among the Palestinians, including some twenty-two civilians. Moreover, by choosing to engage in a ground action, the army had put its soldiers at considerable risk.<sup>2</sup> Without doubt, the use of air power alone would have occasioned a far larger number of dead among the civilians. The findings of the Human Rights Watch report were picked up by the main Western newspapers and this set the terms of the debates that followed.

## The Scene of Justification

### A Global Performance

How are we to grasp a morality in whose name the justification of international acts is demanded? The analysis of this phenomenon and our arguments about it accord great importance to reason, without however neglecting the importance and value of emotion and subjectivity. In its appreciation of the tragic dimension, the morality of justification makes the proud claim of encompassing the excessive and the outrageous.

The writings of Stephen Toulmin<sup>3</sup> or Jürgen Habermas<sup>4</sup> are, admittedly, important for understanding justification, but they do not grasp the specific nature of demands for justification on the international scene. It is not easy to transpose the specific character of their thinking to the international arena. The same problem applies with Rawls.<sup>5</sup> Making a connection between the abstract character of thinking based within the borders of the nation state or a closed society, and an analysis whose focus is international affairs is problematical. It is not possible for the moment to rely on any a priori definition of international justification. Criteria are emerging progressively, thus making it all the more urgent that this development be accompanied by normative thinking. The various demands for justification lie at the heart of a morality

based on public exposure (*publicité*). If their validity is not acknowledged, those advancing them perish at the hands of their competitors: justification lives or dies by its performance.

### The Challenge of Criticism

For the various demands for justification to have a meaningful impact, the mechanisms they arise out of have to be legitimately recognized by a wide audience of observers. This exigency is central, precisely because of the lack of credibility of their institutions among the citizenry. The unavoidable question of the "institution of the political" has assumed unprecedented importance today.

Three crucial questions have to be asked. Demands for justification are based on novel articulations between law, morality, and politics. Is this ensemble coherent? Whereas the question of collective responsibility has traditionally been left out of thinking on international affairs, it takes its place at the center of these debates. What is the value of such a requirement? This structure is built around a voice, a tone; it applies specific means. Is it appropriate for pursuing the objective it sets itself?

By arrogating to themselves the power to criticize in accusatory mode, the victims and their spokespersons opened themselves to a series of reproaches. Have they the right to criticize lack of responsibility on the part of representative institutions? For a number of their opponents, these newcomers' lack of representativeness is damning. In other words, the rule might be said to prevail that "there can be no equality (of comment) between unequals." Yet the aristocratic critique of this moralism is hard put to conceal its confusion. Statesmen and the temple guardians of legal orthodoxy<sup>6</sup> have always disdained their competitors, in order to protect the stability of a system in which opening up politics to the injunctions of the moralists would mean throwing the mechanism out of kilter. Here is a very stimulating opportunity on the practical and theoretical plane. A morality strengthens itself by contact with its critics, advancing by the examination of its own rough edges. When divested of their partisan character, these remarks raise the question of the positivity of this phenomenon and its authenticity.

### Taking Morality Seriously

Demands for justification exhibit the features of a universalist project. There are two potential stumbling blocks when it comes to analyzing

them. The first lies in the inclination to a suspicion that identifies morality with an object of belief that is perverse in nature. This sociology seeks out the contradictions and weak points in a *doxa* that enables the dominant to establish their power. The counterpoint to this rebel science is an “enthusiastic” sociology. This analysis or, rather, program is based on a preestablished selection of reformers charged with saving the world by attributing self-fulfilling powers to their discourse. Ultimately, the interpreters of this revolution acclaim their own victory. Both approaches are inappropriate: the former leads to a sneering relativism, the latter to an integrist idealism.

Constructivist sociology has, in our thinking, another aim. It takes seriously what human beings try to do in their relation to the just and the good. It investigates this aspiration, then opens a discussion at the normative level. Within this approach, two dimensions turn out to be complementary. At the historical level, the ideas of the good and the just constantly recur. From the beginnings of the modern era, these invariants have, with Gentili and Grotius, been at the heart of legal, moral, and political thinking. Around these values a thinking has been elaborated that takes account of the size of the international system, its changing form, the number of its participants, and, more recently, the difference between cultures and types of state. Morality then comes to be of the order of historicity: there is a profound difference between the scope of the current forms of the good and the just and their nature during the Cold War. One example is paradigmatic of this: the prohibition of murder has progressively taken its place in the history of thinking on—and the practice of—warfare; an interpretation of this prohibition has subsequently been formed, following out the twists and turns of history. The analysis of demands for justification takes on board the operation of a relative invariance of moral questions; it examines their transposition to the international level and takes account of their historicity.

#### *An Ambitious Project*

An individualistic morality of recognition is on the horizon, linked to the appearance of new forms of power: the soldier has the capacity to kill; by accepting the mission of maintaining order, he also occupies a nurturing function. The Marshall Plan pioneered this policy. After the horrors of Indochina, Vietnam, and Algeria, the trend toward wars of rescue has, under the pressure of humanitarianism, become more pronounced. Self-interest and caution have gone together. There was no napalm in Afghanistan.

Ideally, the morality of justification has four main characteristics.

1. It is a morality of the individual attuned to the collective. It achieves the sociological challenge of effecting a dialogue between these two poles. The standards of collective behavior take account of an unprecedented sensitivity to what is humane; the individual is confronted with the collective image he contributes to forging. Institutions are arraigned before courts, while individuals commit themselves to humanitarian causes.
2. This morality has both an objective and a subjective aim. It is based on reason and a materialist consequentialism. Anchored in a historical moment, it thinks the present through the grid of the subjectivity of emotion.
3. Self-preservation and the avoidance of pain are at the center of these debates. These shape a morality of limits, which is part and parcel of the way Western democracies are moving and of the risk-aversiveness of their members.
4. Lastly, this morality is a morality of the commensurability of experience, based on an exchange of real-life experiences. "Victim competition" is more an attempt to compare personal and collective tragedies. Comparison takes on a positive meaning, showing up each person's specificity by the paralleling of several different experiences. In such a context, the comparison between massacres, genocides, and crimes against humanity brings advances in these historical and legal categories. This knowledge strengthens the individual consciousness.

This morality also sets itself limits. If a decision were made to explore a distant past, those responsible for injustices and their representatives or descendants would have to make amends for an act lost in the mists of time. Every community, company, or state has committed an act that has harmed another group. Moreover, without limits, this responsibility would have no geographical bounds to it. One of the most topical cases is, for example, that of export subsidies. Where does the boundary lie between incidences of protectionism and cases of sheer nationalism?

Crimes like the use of forced labor or political and economic collaboration with a dictator cannot have the same status as genocide; they do not entail the same responsibility on the part of the descendants of the criminal who committed the acts. After three generations, demands for reparations should no longer be admissible. A rule of this kind, stresses

Grotius, is necessary, for pragmatic and anthropological reasons, to foster social peace and concord between generations.<sup>7</sup>

The nature of the responsibility is also variable depending on the extent of the connections separating an act from its consequences. Responsibility must take account of a minimal knowledge of the wrongs one political or economic entity is indirectly capable of doing to another group. The consequences of an act may be reprehensible, but the same does not apply to their extension through a dizzying causal sequence that runs back into the past, projects itself into a distant future, or crosses all national borders. A multinational is imperatively accountable when it does business with a dictator. Things are different with a company that has committed an error of management and had to lay off workers, thus depriving the country in which it was established of certain resources.

To avoid this morality turning into a fixed doctrine, judgment is required to be “understanding” and to avoid degenerating into inquisition. Three challenges have to be faced: to grasp the understanding of the situation the decision-makers displayed in the acts imputed to them; to consider their capacity to assess the consequences of their decisions rationally; and to take on board the political and moral vision inherent in their decision.

### **The Edifice of Morality**

#### *The Word of the Law*

Law and morality provide the basis for demands for justification. This dynamic is also built on specialist bodies of knowledge, such as economics, humanitarian action, medicine and history. These bodies of expert knowledge submit the questions posed by lawyers, and moralists to empirical testing. This competition between experts in the various fields of knowledge concerned then turns into a laboratory and a forum for competing ideas. Global governance has been subjected to many critical analyses in this way. The advocates of this policy have been required to justify their choice. And as a result of the war against Iraq, the reality of American unipolarity is increasingly being questioned as to its foundations. Some have doubted the reality of that unipolarity and have expressed the need to find an alternative model.<sup>8</sup> This moral stance—indignation at the war—is bound up with an interpretation of international law. Its proponents assert a multilateral vision.

What is the relation between what is just in the legal sphere and good in the moral sense? It is definitely advisable to make a distinction between the two. What is moral is not necessarily just in legal terms. If one believes he is innocent, the protection of a friend who is being pursued for murder is, from a non-Kantian standpoint, a moral act,<sup>9</sup> though such a stance is clearly a breach of the law. The military intervention in Kosovo illustrates this disjunction between the two orders: morality there was deprived of legal underpinning. Conversely, the just is not necessarily moral. Certain acts respect legal principles, yet do not coincide with the dictates of our consciences. Economic sanctions against Iraq were approved by law; they may even be said to be the product of a long legal tradition: it is, however, permissible to doubt their morality.

Is a radical separation between law and morality satisfactory? It would cause some serious problems. It would discourage many acts of goodwill and would be an obstacle to some of the virtuous traditions of international justice. Happily, there are many points of overlap between legal dictates and the aspirations of morality.<sup>10</sup> The two lines may intersect; a commitment in favor of a cause has the greater chance of being accepted and regarded as legitimate if it belongs to both these registers. International demands tend to bring the two orders closer together. Though the humanitarian intervention in Kosovo was not legal, its morality is not contrary to the foundations of law.<sup>11</sup> We may assume—and wish—that it will contribute to a development of the law. Healthy competition between the high priests of the good and the apostles of justice has created a situation in which the frontier between morality and law has become increasingly porous. If morality appeals to the emotions and law legislates, the one puts more emphasis on the oral side of things while the other is embodied in written texts.<sup>12</sup> To speak is to read.

### International Torts

Let us stop and consider two strands of the legal revolution for a moment. Over the last fifteen years, national common law rights have tended to become internationalized. International law has strengthened and become specialized, making its impact on national societies the more significant. In both cases, the development of sensitivity to the humane dimension now plays an important role in the application of the law.

The American civil courts are one of the components of this change, as places where damages are claimed on the basis of what the legal

system calls “tort law.” In its extension to the international field, this is law of a relatively recent stamp; it is based, nonetheless, on the very long-standing Alien Tort Claims Act.<sup>13</sup> Within the framework of class actions,<sup>14</sup> this grants non-American citizens the opportunity to sue classes of persons and individuals from countries outside the United States. It has been used approximately a hundred times since the early 1980s (mostly during the following decade). About ten of these actions were successful, but they essentially have symbolic value. The threat of them is a way of putting pressure on companies (more reactive than states), which often agree to settle out of court (before the trial begins or during it).

This internationalization of national civil justice parallels the development of international criminal law. Mirror effects are created: the possibility of a civil action gives additional weight to the international criminal law and vice versa. This correspondence is well-illustrated by an example. Class actions relating to collective rapes perpetrated in Bosnia were brought against Karadzic and his henchmen. In 2001, the victory of the complainants in a New York court and the conviction of the rapists *in absentia* gave these women a voice: the need to pursue criminal charges against soldiers guilty of similar atrocities was underlined by the New York trial. The publicity given to the judgment—by which the men were to pay substantial damages to the victims—achieved its effect, without it being possible, of course, to recover the sums in question.<sup>15</sup>

These two phenomena, the globalization of civil class actions and international criminal tribunals or the international criminal court, attest to a decisive legal turn. The advocates of the legalistic revolution are generally in favor of these two forms of legal internationalization, while its opponents do all they can to hamper this two-pronged advance. Several legal scholars at the University of Yale have, on more than one occasion, advocated the use of the Alien Tort Claims Act and recourse to international criminal law.<sup>16</sup> Harold Koh is one of the act’s most ardent defenders. After working at the State Department, where he had responsibility for human rights during the Clinton presidency, this professor of international law returned to academia and contributed to defending the cause of law through his writings and public interventions. The opponents of tort law are, for their part, mostly representatives of states or the directors of large multinationals.<sup>17</sup> The strongest voice raised against this legalism with an American inflection<sup>18</sup> is that of the government of George W. Bush. On many occasions since his election, the American president has opposed class actions very staunchly. It is

not just foreign entities that are concerned by this new form of law; American companies and their subsidiaries overseas have been targeted by class actions. In some very specific cases it is also possible to bring actions against the American state.<sup>19</sup> On the basis of this same conservative political vision, George W. Bush has, moreover, refused to ratify the statutes of the International Criminal Court.

### *Is Politics in Danger?*

There are many critiques of the abuses to which this dialogue between law and morality leads. From the standpoint both of morality and politics, the two registers are said by these Cassandras to pose insurmountable problems. Is not this moral demand, underpinned by the heart-rending appeal for compassion, the barely concealed expression of *ressentiment*? Is it not the embodiment of the morality of the weak who dare to thwart the advance of the great civilizations? One recognizes here the features of a thinking that is inspired—sadly, most often distantly—by Nietzsche’s writings, in which Europe is warned of the danger of an adulteration of its consciousness, afflicted with a sickness of the will and degeneracy.<sup>20</sup> In the late-nineteenth-century, Nietzsche’s calls for strong minds to be vigilant took Christian slave morality and the shopkeeper morality of utilitarianism as their targets. We have to admit that Christianity and utilitarianism—and, hence, their Protestant point of overlap—are major sources of inspiration for the indictment of international wrongdoing.

This provocative critique, often expressed in much less luminous terms than Nietzsche’s, calls for a critical response. First, the sociological weakness of the neo-Nietzschean comment is patent. What is a community of hatred? It is difficult, if not impossible, to understand the extension of individual *ressentiment* to the collective, political level, particularly when its interpretation is formulated in such culturalist terms. A question of scale arises, which this type of interpretation ignores.

It is different for the individual. Class actions and actions against institutions are, indeed, very often the continuation of a *ressentiment* that arises from a deep sense of injury. Yet the aggregation of these recriminations does not engender “sickness of the will” and political apathy. On the contrary, the demand the action embodies is, in many cases, salutary for the group that echoes it: it forges new social bonds.<sup>21</sup> Individuals as such are made to assume their responsibility. By virtue of the need to give moral and political force to the group to which they declare their allegiance, they are encouraged to transcend the



*ressentiment* they feel. They are enjoined to measure up to the response they are demanding.

Another recurrent critique of victim morality is that it distorts minds. These actions, say the critics, are brought by ringleaders preying on frustration, who gather complainants together for shameful motives of personal enrichment or careerism. This criticism is all the more groundless for the fact that, in a heterogeneous set of actions, it is impossible to distinguish what is sincere from what is not. The complaint is what it represents. In the pursuit of compensation that accompanies it and in the *ressentiment* that may be felt by the person expressing it, a complaint embodies its own sincerity. To confront the obstacles that hinder the free expression of the complaint is to provide proof of one's suffering. In response to the call that it represents, careful attendance to the complaint, either to accept or refute it, brings progress in the law.

To give a fully satisfactory response to this register of criticism and to move beyond it, we have to look at another aspect of complaints. Legal procedure admittedly accommodates *ressentiment*. The individual attempts to move a jury to pity and manifests his aggressiveness toward the accused. This context is not the product of a collective morality of the weak, but rather of the right to bring legal action and the political and philosophical tradition of which it is a part. The approach goes back to the seventeenth century, as Edward Andrew has shown, and it is the basis of what that writer has provocatively and penetratingly dubbed "Shylock's rights."<sup>22</sup> In Hobbes, Spinoza, and Grotius, the founders of the politics and law of the modern era, accusation on grounds of natural right has an aggressive charge to it. This question is also treated in Locke's philosophy, where the tendency is both supported and, at the same time, mitigated.

Shakespeare's play illustrates this desire of a plaintiff who refuses absolutely to yield over his rights to reparation and backs an institution into a corner. Shylock is *entitled* to his pound of flesh. Such an insistence has a moral meaning: Shylock is rebelling against the scorn of the Gentiles. It also has a political burden: Venice has to face up to the definition of the status of its minorities. Above and beyond the manifestly anti-Semitic character of the *Merchant of Venice*, Andrew delves into the implications of the figure of Shylock. Of what worth is a legal system that permits a plaintiff to assert the rights stipulated in a contract irrespective of the bounds set on those rights by common sense? Legal liberalism and, as a result, the politics of pluralism and individualism make such a manifestation of will possible today.

Aggressive rights are, in fact, a reality. They disregard the respect that is, according to Kant, inherent in any critique of the state.<sup>23</sup> But is such incivility a damning fault? To believe so is to set little store by the moral and political capacity of individuals gathered together in a community to rule on the validity of such demands. Shylock is destined to remain alone. Though valid at the contractual level, Shylock's extreme case is not acceptable morally. It would pervert the legal system and the values that underpin it; it would doom that system to disappearance. From the political standpoint, to accept it would certainly bring deep disruption. It would give the persecutors of the "perfidious murderers of Christ"<sup>24</sup> additional pretexts for pursuing their efforts.

When not formulated in such extreme terms, these complaints cast light on a political and legal system and encourage it to react; such a morality is practical. By accepting indictment, democratic societies might be said to be taking law and morality on board in a constructive way. Legal and political liberalism fosters the progress of a morality of multiculturalism. Ultimately, it could promote a cosmopolitan politics.

### What Responsibility?

#### Indirect Collective Responsibility

A major preoccupation runs through the different demands for justification: *the self-limitation of power*. Capitalism and the political sphere developed by accumulating resources that were destined to establish an unprecedented capacity for control and destruction. The critique of the direct use of that capacity is generally accepted today, even though that critique is not necessarily followed up by action, as is attested by the Vietnam or Algerian wars. However, unlike what happened in the case of Germany during World War II, no Western state has since deliberately and directly used its power unjustly to attack other democratic states, committing crimes against humanity. And Western power is capable of causing material and human damage far beyond the scope of Nazi Germany. But during the twentieth century, one finds, in fact, an inverse relation between Western states' propensity for military aggression and the development of their strength.<sup>25</sup>

This horizon of democratic sensibility finds expression in the emergence of a new category, *indirect collective responsibility*. Let us begin by considering the question of collective responsibility.<sup>26</sup> When the will of

each of its members has made the decision possible, an organization is collectively responsible for the implementation of a policy that inflicted harm on a large scale. Whereas collective responsibility<sup>27</sup> is often ruled out from the outset in legal and political debates on the grounds of its consequences, which are prejudicial to sovereignty and "civil peace," it is one of the essential components of the transformation of international affairs today. Contrary to the predictions of its opponents, the rejection of collective responsibility leads to a deficit of legitimacy: the citizens' trust in their institutions is further eroded.

A negative definition makes it possible to remove one major confusion that underlies many of the rejections of the concept. Collective responsibility is often equated with collective guilt. Contrary to what might be meant by the current wave of repentance and the literal interpretation of that phenomenon, it is impossible for a collective to feel guilt. A collective may deliberate and decide; it is, on the other hand, bereft of a consciousness that would cause it to have feelings.

Guilt is the response of individuals who question the meaning of their actions and submit to the tribunal of their consciences. Guilt is also the verdict of a criminal tribunal that passes a verdict on a decision made by an individual.<sup>28</sup> At the criminal level, the tradition of *mens rea* properly puts the accent on the individual dimension of an action and the intention underlying the individual's perpetration of a crime.<sup>29</sup> A member of the SS is judged and found guilty by a criminal tribunal; he is also able to engage in reflection on his own guilt. The SS as a body has a very specific collective responsibility, which must be distinguished from the individual guilt of its members and also from the responsibility of other organizations within the Nazi system.

A society can gain from reflecting on the levels of responsibility of a governmental act, among other things by elaborating civil procedures. In the case of the war against Iraq, one of the justifications proclaimed by the American government turns out today to be problematic, even though a war against Saddam Hussein would have been justifiable on grounds of humanitarianism and anti-totalitarianism.<sup>30</sup> If it turned out that a lie had been told about weapons of mass destruction, as seems to be the case today, the American president should be held responsible for that offense. The status of the lie, its individual or collective nature, would have to be determined.

The case of the responsibility of a state and the responsibility of its leaders for the direct violence they occasion is a classic one. When a massive offense against human rights is proven, there has to be a legal and political reaction. Such a demand has increased in legitimacy since

Nuremberg. There is, however, a field in which the assessment of violence is less certain. In the 1990s, an ever more urgent critique was directed at collective bodies on the grounds of their indirect responsibility in a series of acts of violence. Denunciation of this kind raises an initial problem. *Indirect violence* is, by definition, fragmented; each of our actions causes unintended consequences that are euphemistically termed “negative externalities” or “collateral damage.” Such consequences are often not entirely foreseeable; they are sometimes beyond the range of vision of those potentially responsible for them.

The “double-effect” doctrine, which is Thomist in inspiration,<sup>31</sup> is usually called in to handle these dilemmas. By a rebound effect, a decision is liable to cause damage to an individual or group of innocent bystanders who are not its intended target. A bomb may blow up an armaments factory and nearby civilians may be killed by the explosion. To determine the responsibility in such a case, the double-effect doctrine specifies four criteria. Irrespective of its negative consequences for a third party, the morality of the action must not be in doubt. The beneficial effect of the action is not the result of its consequences, which are merely permitted. Such consequences *are not intended*; it is not possible to speak of intention where they are concerned. There has to be a very serious reason if these consequences are to be tolerated. It is contended that the application of these criteria makes it possible to resolve the question of the responsibility of the decision-maker absolutely.

Such an approach is not satisfactory today.<sup>32</sup> There is often a long time-lag between an action and its consequences. These consequences are less easy to grasp than the most traditional uses of the double-effect doctrine. It is clearly easier to count the number of civilian dead in the case of an explosion near an armaments factory than to evaluate the health consequences of an embargo lasting for more than a decade. In the latter case, the delayed effect is great in magnitude. The double-effect doctrine does not allow us to form a sufficiently nuanced judgment that takes account both of the opacity of international affairs and the sophisticated means of information at the decision-makers’ disposal. It does not incorporate the high level of interdependence in international decisions, nor does it pay attention to the sensitivity of the democracies to the indirect consequences of political or economic decisions.

Another major problem renders this interpretive grid particularly inappropriate. The use of intention, one of the criteria of the double-effect doctrine, is not convincing. This doctrine takes the view that intentions are either good or bad. However, several intentions, both good and bad, are expressed in a decision. At the individual level,

ambivalence often prevails. A collective decision is an aggregate of these various inclinations and echoes this plurality. To agree to commit an act that, if only indirectly, causes harm involves all the levels of consciousness and the various stages of collective deliberation. Politicians would gain by shedding light on all aspects of their decisions. In this way, from a moral perspective, a *minimal intention to harm* would be analyzed and debated.<sup>33</sup>

Intention is one of the aspects of decision-making and a major component of indirect collective responsibility. Three operations are necessary if we are to understand it: the process of deliberation in which the various intentions were manifested must be explored; the values that influenced the deliberation and decision-making must be understood; and the triggering factors must be identified. To take a decision and to implement it signifies intention, particularly in international relations. Diplomatic visits, declarations of war, handshakes between statesmen can be taken as images and symbols; some of these acts have a twofold meaning and express a plurality of intentions.<sup>34</sup> Understanding them casts light on a profound ambivalence within the political sphere; debating that ambivalence on the public stage is also indispensable. Sanctions and the traditional Wilsonian approach are illustrations of this ambivalence.<sup>35</sup> In the early 1990s, sanctions were presented in a favorable light; they were seen as a salutary legal alternative to war. However, in the case of indiscriminate sanctions, they are the mark today of a tragic error: law has spelt the death of morality. The embargo “liberates” the nation from its dictator. Yet, as Wilson said, it is “lethal” for those against whom it is targeted. Some years later, the public debate on the sanctions regime—the reasons for sanctions, the objectives pursued, and the guiding intentions—has had beneficial effects: the policy on embargoes has been reformed.

### *Profiteers*

Let us take the example of the installation of a multinational in Indonesia.<sup>36</sup> That company is not directly responsible for the inequalities between North and South, for poverty nor, even less, for the nepotism, cruelty, and corruption of the authoritarian regime in that country. On the other hand, it does choose to prosper in this context. In so doing, it increases the purchasing power of its employees and plays a part in the development of the region. It may also contribute to the suffering of some sections of the population if its installation causes uncontrolled migration and environmental problems. These problems are potentially

acute, precisely on account of the failings of the economy and the decisions made by the country's political leaders. The damage suffered by certain groups correlates indirectly with a gain that strengthens the social position of the profiteer and his employees. The profiteer is deriving advantage from a situation for which he is not directly responsible. It was not he who produced the original causes of the economic inequalities and political domination afflicting the victims.

Some actions fall under the heading of collective responsibility, even though the organization deemed responsible apparently does not profit from its decision. The example of an explosion at a nuclear power station illustrates this rather well.<sup>37</sup> Let us take the view that the accident is unforeseen; it does, however, take place in a country where the infrastructures and state are deficient. The directors of the power station were committed to their work and their intention to do harm is, therefore, highly questionable. They may perhaps have died in the explosion and their production facility may have been destroyed.<sup>38</sup> The accident was probably caused by an act of negligence. Is it entirely bereft of intentionality? Negligence is regarded as a minimal intentionality, entailing indirect responsibility. The expected profit ensues from the decision not to take proper care of some sensitive installations.

The category of profiteer is found in many exposés of international wrongdoing. The profiteer derives advantage from a context in which a violation of law and morality has already been identified. Admittedly, he is not unaware that there is great injustice in the situation. However, he operates behind a relative "veil of ignorance" that varies in its opacity. After the event, the density of that veil tends to be exaggerated to some degree. "I didn't know what was going on..." is, in fact, a very common reaction. Nonetheless, opacity genuinely does exist in international matters. An assessment of responsibilities has to be arrived at. Without ascribing all the most shameful of intentions to those exercising power, let us take economic and political decision-making seriously in a highly interdependent, heterogeneous international context. We have to examine the relation between the complexification of international issues as a result of the interdependence of decision-making at the global level and the increased knowledge that enables us to grasp these issues. Reason does not necessarily lag behind worldly developments. In this case, if we take the view that our knowledge and powers of observation have increased considerably, to the point where what is now a more complex environment is made more easily interpretable in advance,<sup>39</sup> the category of collective responsibility assumes its full meaning. Decision-making entails responsibility and involves a

minimum of consultation, discussion, and foresight. But, unlike the accomplice, the profiteer is not a perpetrator of the great crime; he does not participate in it. His is a case of vicarious responsibility.

The demands of the victims are part of the trend within Western societies toward a heightened sensitivity to injustice and pain, to a “care of self” that has the body as its object. “Victims” are the children of bio-politics and the risk society: they look to *other responsible parties than those who directly inflicted their troubles on them*. In directing their complaints against the indirect beneficiaries of their misfortunes, the complainants are retracing their history.<sup>40</sup> They are getting to the bottom of the “human, all too human” decision that is attributable to the irresponsible individuals whose paths they have crossed. Those states or companies prosper despite their error; sometimes they have even acquired a lasting fortune by virtue of it. They have managed to derive advantage from an unjust system of which they were not themselves the architects: this fundamental difference between the Swiss banks, which did business with the Reich and refused to return Jews’ property to them, and the Nazis who murdered Jews must be clearly established.

In 2001, Coca-Cola was taken to court in the United States: a trade union leader in its Columbian subsidiary had been murdered by paramilitaries, while five other union officials had been kidnapped and tortured. Was the company perhaps behind the murder? If this were the case, its directors would quite simply be guilty under the criminal law. If the company’s version were true, if in fact it had no link with the murderers of these person, it would still have to account for its actions. Columbia is one of the most dangerous countries in the world and the state there is cruelly deficient when it comes to protecting persons: in that situation, the company should have taken greater precautions. There is even more of an obligation on companies, given that Columbian wages are lower than those paid in North America.<sup>41</sup> The firm failed in the obligation it sets itself in the Northern countries—the protection of its employees; it failed also in the universal project to which it subscribes in trading with the South.

A second aspect of indirect responsibility is of decisive force in these cases. The decisions of profiteers may have the effect of *reinforcing or extending the harm suffered by a group that suffered an injustice for which the profiteers were not directly responsible*. As some lawyers have attempted to show, “Switzerland”—its state and its banks—can be said to have prolonged the suffering of the Jews. This accusation involves sophisticated research. Three questions have to be resolved. First, what is the connection between decisions and the consequences for the victims?

During World War II, the strict application of Swiss laws preventing the migration of populations in mortal danger was a morally grave act. Trading with South Africa and running the risk of prolonging Apartheid is less serious; the correlation between the decision and the suffering is less clear than in the previous case. In the former case the decision-maker should have reformed his policy, which could have been done with ease.<sup>42</sup> Second, can we speak of an intention to harm when we are speaking of victims who are already oppressed? If certain values guide a decision that has consequences detrimental to victims, then we may envisage this being the case. In Switzerland, the historians of the Bergier Commission have examined the question of Swiss anti-Semitism before and during the war. They have analyzed the anti-Semitic context in which immigration laws were promulgated and applied, causing the deaths of non-Swiss Jews who might have tried to take refuge in that country. Third and last, can the profiteer turn into an accomplice and play an active part in a crime he did not initiate? In the countries occupied by Germany during World War II, war profiteers traded with a dictatorial regime, while some took an active part in genocide, for example, by joining the SS. These recruits made the decision to engage in physical violence and, in so doing, became culpable in criminal law.

### *Consequences and Intentions*

How do things stand in the case of a political or economic entity that believes or says it is doing good, yet accepts that it has to kill? Is it acceptable to increase the suffering of a people by bombing a country to rid the population of a tyranny oppressing it?<sup>43</sup> In the case of the war fought by NATO against Milosevic's Serbia, the bombing had an immediate effect. It prolonged the hardship for the Serbian civilians. It also enabled Kosovans and Serbs to be liberated. What was the indirect responsibility of Westerners in this? It is necessary to understand both the consequences of the bombing and the intention of the decision-makers. During the Iraq war, the critics of intervention asserted that America was not interested in the Iraqis; its only objective was to get its hands on the country's oil. Its intention was dictated, they said, by profit. Critique in terms of deterministic explanation based on self-interest is, admittedly, most often disappointing. However, profit is an element of choice and one of the dimensions of the motivation of action; it is part of the criteria of moral evaluation.



It is possible to range the variables of consequences, intentions, and profits into several categories. The measurement of the direct and indirect consequences of an act is the first criterion for reflecting on its justification.<sup>44</sup> The consequences may be positive, negative, uncertain, unforeseeable, or incalculable. Intentions are straightforward, dubious, altruistic, or egoistic. In evaluating them, we must take account of a minimal intention to do harm. There are collective profits (within a state, an international organization, or a company) and individual profits. They may meet the needs of the “in-group” or be distributed between states or on a cosmopolitan (global) scale.

Several different situations are possible. If the minimal intention to harm is low or nonexistent and the consequences of the act are positive, the act is justified.<sup>45</sup> If it is low and the intervention was a failure, there can be no responsibility on the part of the decision-maker. If an intervention is predominantly motivated by a predatory desire or an intention to harm, then if it turns out to be a failure, it cannot be justified.<sup>46</sup> An act whose consequences are negative cannot be justified politically; morally, too, it would pose a problem, by virtue of the criterion of the maximization of the happiness of the greatest number, insofar as it would no doubt lead to problems for a group of individuals. Would an act with positive consequences *necessarily* be justified? No, most notably when the intentions are selfish and the benefits from the act are individual and not distributed. There would very probably be a negative retroactive effect on subsequent action; this bad example would lead to a disruption of moral and political rules (the war of each against all in the pursuit of self-interest). If military intervention is regarded as representing an advance over an initial situation and is a success in terms of criteria that are not exclusively the advantage of the country intervening, it may to a certain extent be justified, despite a minimal intention to harm.<sup>47</sup> It all depends on the relation between the degree of negative intention and the effects achieved by the decision. When the consequences are positive and the intentions questionable, it is possible to decide the matter by considering the nature of the distribution of the advantages. Thinking should be done—favoring a consequentialist approach—on the long-term implications of a negative intention whose most manifest consequences are positive.

Positive consequences are a necessary precondition for the favorable evaluation of a decision. That evaluation is made, first, on the basis of a prediction. The analysis projects itself into the future and considers the direct and indirect consequences of the decision. The level of these consequences depends on the number of actors concerned. Their

legitimacy at the political and social level must not be in question; they must be states or nongovernmental agents. These groups have greater legitimacy insofar as their action is beneficial to the whole of the international system. The decision is justified a priori if the prediction is favorable. It is then subjected to a second assessment once the operation has been carried out.

Three parameters make these assessments tricky. At the deliberative stage and in the *post facto* assessment, the various different levels of consequences need to be established with precision.<sup>48</sup> The external observer is faced with a second major uncertainty. The larger the collective that decides and intervenes, the more difficult it is to establish its intention. Moreover, the greater the space in which this collective operates, the more difficult it is to identify its intention, since the veil of ignorance is dense. Lastly, the international sphere is characterized by a complex interdependence, which produces delayed effects. Decision-making is all the more hazardous due to the fact that deliberation must take account of this aspect. The evaluation of the decision must take these difficulties into consideration.

The difficulty of analyzing such cases produces controversy between experts. This battle over the definition of the true has beneficial effects on the credibility of institutions, by reinforcing the faith of citizens of the democratic societies in the virtues of deliberation. Two variables condition the success or failure of criticism: the reaction time of civil society and its members' capacity to deliberate. By encouraging expert deliberation, denunciation produces politics and educates the political sphere. It also leads to a salutary exercising of democracy, a laying bare of passions through catharsis. The example of the war against Iraq is instructive: the problems the American and British leaders are encountering today are leading to a better definition of democratic war-fighting policy.<sup>49</sup>

### The Value of Choice

The profiteer has choice. He is not a "man without qualities," incapable of choosing his trajectory other than by running along the rails of his class destiny. Marx stresses that men do not know the history they are making: locked into a structure that exceeds their grasp, they do not even know who they are. Human beings oppress in order to keep themselves in power, without knowing the true meaning of their history: profiteers are oppressors. Marxist thought and, above all, its ideology have evacuated the morality of choice in favor of condemnation.

We take the view, by contrast, that human beings have, by their reason or intuition, a relative knowledge of their acts; the *opacity* of international relations and the complexity of history are not insuperable obstacles that render these faculties inoperative. The debates around new responsibilities are evidence of this consciousness. Virtual history, the reconstruction of historical sequences that bring individual and collective responsibility into play, are part of a vision that foregrounds an aspect of human nature: the freedom to act.<sup>50</sup> The struggle against money-laundering is an example of this. As a result of the examination of this question, the capacity of bankers to assess the provenance of monies entrusted to their care has come to be recognized. In this confrontation between the financier and his critic, one intuition is reflected in the mirror of the other. By denouncing the option of fostering organized crime, moralists are exposing an identity that is both personal and professional. This embarrassing unveiling of the illicit has a great virtue: it renders the bureaucratic decision more human by according increased value to intuition in human relations.

In recent years, a new lexicon of responsibility has emerged, the term “accountability” being particularly to the fore. Such a notion stresses the value of choice and points to a situation in which an individual or organization is required to account for its past and future acts and decisions. Those calling for such justification are legal and administrative institutions, victims, or simple citizens. Their critical scrutiny implies the existence of rewards or penalties.

In practice, such a regime is in place; it works at the symbolic level. Internationalization has created a reputation market; choice is a commitment of responsibility on the part of the chooser. His reputation is subject, in the first instance, to critical examination by the media. International organizations, for their part, also resort to the policy of “naming and shaming.”<sup>51</sup>

Are images and symbols capable of having force of law alone? There is a danger that this desirable order will, in fact, remain a dead letter if there is no provision for coercive sanctions measures, so that a hierarchy of choices is respected. The International Criminal Court project makes provision for this role, but it is currently hampered in its operation by the American refusal to cooperate with it. For all that, the ability of the reputation market to induce compliance is not to be underestimated: this ensemble of forces is establishing a relationship between obligation-through-blame and coercive force. The immaterial character of reputation and the burden of material obligation meet here, since images have substantial suggestive power. The dynamics

of images is anchored in materiality; it assumes belief in the profits of virtue. Coercive sanctions have been put in place by the market, notably in the case of boycotts, and by producing values that orientate interests, the market gives meaning to a materialist project that is both political and economic.

## The Uses of Materiality

### The Economic Metaphor

The term accountability or, indeed, the “*redde rationem*,” make use of the economic metaphor. Money very certainly occupies a central role in the denunciation of irresponsibility; it is both a metaphor (the “liabilities” resulting from an error), a symbol (monetary payment and its acceptance as a mode of communication), and an instrument of coercion. This role derives from the individualist demand of the complainants; it resides in the heart of the capitalism of Western societies, where we have to highlight a paradox: money is indissociable from democratic “post-materialism.” This terminology refers to the tendency to express well-being, leisure, or time in value terms. Risk-aversion is also one of its components. Money is the vehicle through which this demand for recognition of identity, quest for well-being, and demand for recognition of individual suffering are expressed.

The role of money in the evaluation of grief is a practical one. If it is to be made public, the metaphysics of suffering needs to be situated on a tangible referential scale. Money has the advantage of being a universal medium: it circulates, is translatable and provides the link between the individual and the collective, the national and the international. It is a reflection of our age and its high regard for the quantitative: individuals make extensive use of indexes, scales expressed in material terms showing the ratings for monetary or immaterial goods, Stock Exchange prices, the performances of companies or public services, political opinion poll results, human development, and so on. Value-based publicity is one of the components of the life of democratic societies.

If everything can be bought and sold, immaterial goods are no exception to this rule. In such a system, ontology is not separate from materiality. Taken to extremes, this orientation leads to a situation that is, in many respects, dizzying, where money is associated even with death. Marx states this clearly: “Nothing is immune from this alchemy, the

bones of the saints cannot withstand it, let alone more delicate *res sacrosantae, extra commercium hominum*.”<sup>52</sup> Everywhere, death is celebrated in sorrow; everywhere, money meets needs that are judged desirable, and compensates for suffering. Democratic sensibility and liberal political economy come together. Democratic complaints are both metaphysical and materialistic. How many deaths did a particular act cause directly or indirectly? What is the total financial cost of the damage?

### Negotiating Repentance

The acknowledgment of debt, investment in a better future—these economic metaphors contain a strong ontological component. Money is a message, the medium is the message. Negotiation and, after it, payment are acts that speak; they are, to play on Austin’s famous formula, “act speeches.”<sup>53</sup> This association between specie and the existential is not just a vernacular turn of phrase; it anchors the individual in a dialogue that is future-oriented.

Let us take the example of the acknowledgment of a debt. During the 1990s, this often took the form of repentance. This—individual and collective—utterance does not imply, for the penitent, that he submits himself to an external gaze capable of assessing the facts on the grounds of which it is uttered. It has no legal value and rejects any association with an economic settlement. It is a symbolic acknowledgment of debt, at best a relative advance if we compare it with silence or denial. Given this isolation and its lack of an anchorage in materiality, the force of this symbol turns out to be limited.

At the Durban Conference, several leaders of Western countries made an offer to African and African American activists, who were calling for financial compensation for slavery, to perform an act of repentance. The Europeans and Americans sought in this way to provide a moral response to the descendants of the slaves. This raised the issues of direct responsibility, of the harm done to the slaves and their families, and of the indirect consequences the slave trade had for the black minorities in the United States and the development of African nations.<sup>54</sup> The representatives of certain communities clearly established the distinction between repentance and apologies, and between repentance and compensation. They took the view that the Western offer was inappropriate. In fact, the act of repentance mainly enhances the stature of the person performing it. Its significance is compromised by its immaterial nature and by the absence of an external oversight that would require the words to lead to an actual reform of deeds. In many cases, it turns

out not to be conducive to the establishment or resumption of relations with the group to whom it is addressed. In repentance, there is no requirement that the accused party justify himself; it may be said to be sufficient unto itself. Because of the deficit of legitimacy afflicting institutions, among other things, it can be received only with distrust.

Black activists have demanded that the descendants of the slave traders, the representatives of the states that engaged in the slave trade, *apologize* to them. These apologies must be based on facts recognized by each of the parties. Apologies are subject to acceptance by those to whom they are addressed, who have the last say on the matter.<sup>55</sup> To address their victims by apologizing to them in a manner subject to acceptance exposes those responsible to examination of the activities for which they are criticized. This situation is potentially conducive to legal action and a discussion of reparations.

Reparations claims appeal to a reparative, restorative justice. If significant progress is to be made, it is necessary to go beyond this dimension of justice. The responsibility for doing so lies with the initiators of this dialogue. The Durban complaints came in the wake of the litigation between the American lawyers and the Swiss banks. The two are linked. The demand for reparation for the crimes of slavery was expressed in terms of reparative justice. However, there are many implications to such claims. The commitment of African states to these debates attests to this, as does the challenge to the role of Western companies accused of having prolonged the life of Apartheid by their activities. This justice has implications for issues around North–South relations, debt, and distributive justice. The financial compensation claims circulated and fed into new debates rooted in other traditions.

### Transfers of Shame

In classical Greek, Catholic, or Marxist philosophy, the deceptive nature of a value theory based on money is regularly criticized.<sup>56</sup> It is right, where reparative justice is concerned, that this critique should be confronted. Is money liable to corrupt the project of a morality of recognition?

The economic sphere is being called upon to characterize unpardonable sins, it is said, but no price can be put on suffering. And money morally debases the person who has no other existential horizons. These two criticisms are very similar in nature: both stigmatize a detrimental trend toward an all-purpose monetarization. Does prostitution sell love? Can one buy knowledge? Can mutual recognition be based

on a monetary transfer? Does financial reparation equate with moral reparation?

Let us look once again at the facts themselves, to assess the extent of possible abuses. Though money is a crucial intermediary, it does not buy reparation: *it is the mark of its necessity*. In the case of the negotiations with the Swiss banks, the problem was brought into sharp relief. After signing an agreement with the American lawyers, the Swiss government and a large section of the population wanted to stifle the debate on the history of their country. However, the historical research carried out by the Bergier Commission continued after the signing of the Agreement. The funding of several years' historical research by the Swiss state came out of the claims for reparations and the threats of retaliation. This made a substantial investment possible: namely, the writing, for future generations, of a better documented history than the official one that held sway during the Cold War.

Money is an objective reference for a subjectivity whose ambition it is to define a universalist rationality. Now, the anti-materialist critique is based on a grievous fault attributed to money: it is said that the "pieces of silver" exonerate both the payer and the beneficiary from the obligation of authenticity. Money alienates; it is an opaque curtain drawn over the most intense existential questions. Even more seriously, money debases.

This interpretation merely expresses a prejudice; there is no rational foundation for establishing such a rule. Clearly, the doctrine underpinning these acts of financial compensation adopts an equally partisan, but diametrically opposed standpoint: in holding an institution to account, the individual is said to emerge from the encounter with his stature enhanced; money is a tribute that strengthens his identity. We can recognize here the lineaments of a thinking that foregrounds the notion of empowerment.<sup>57</sup> These two ontological narratives of debasement and self-constitution reflect two distinct cultures. Each is the product of a belief-effect. As self-fulfilling prophecies, they have an influence on the development of the individuals who subscribe to them and are capable of constructing an individual and collective reality.

A choice has to be made here. In the contemporary context, and for reasons that have essentially to do with the advance of capitalism, empowerment seems to us a more plausible hypothesis than "descent into the monetary quagmire." Not to oppose adherence to this narrative, which is as ambitious as it is unverifiable, does not in any sense mean accepting the faults of materialism. Apart from the case of extreme poverty, the value we accord to money depends on the relationship we

establish with it. Money is not perverse by nature; it does not necessarily entail moral decline. By making the narrative of "empowerment" their own, individuals move closer both to their own identity and to alterity. Reason prompts us to make this Pascalian wager.

However, an obstacle often appears where demands for justification are concerned. It is often painful, and sometimes even shameful, for an individual to lay a personal tragedy before the world and be confronted with those who were directly or indirectly responsible for it. It is, *a fortiori*, very difficult for a complainant to obtain the assent of a majority in order that the validity of his suit is acknowledged. The acceptance of financial compensation turns out to be problematical. The restrictive pendant to the rule that "a criminal may not profit from his crime" is as follows: a victim may not profit from his misfortune.

The memory of a tradition that is today regarded as barbaric reinforces this sense of shame. Until the end of the Middle Ages, a particular means of settling disputes was in force when a murder had taken place: the Teutonic *Wergeld* was a sum of money the murderer could pay by way of compensation to his victim's family.<sup>58</sup> In this way the murderer discharged his duty to justice. Obviously, this practice disappeared with the development of the criminal law. The mere suggestion of it continues, however, to arouse indignation. Every call for financial reparations linked to the loss of human lives recalls the barbarism of *Wergeld*. First and foremost, revulsion is being expressed here at a system of justice that entitles the rich to kill the poor.<sup>59</sup> For the victims, this indignation is also evidence of a deep sense of guilt. It indicates the pain felt by the individual at the idea of profiting from the death of one of his own people. Accepting the sum of money seems to indicate that the death was in some way desired.

With the aid of Freudianism and its vulgate, the secular religion of taboo-breaking is currently overcoming this resistance. The idea prevails implicitly that guilt is constructed by the unconscious: it is the product of a desire for death. If this drive is properly understood, human beings are delivered from the burden of their guilty desire. The contemporary attitude to money valorizes specie as a means by which investment in the common good is effected, particularly in the shared good within a family or community. This attitude is a call to transcend guilt. These new codes have brought a shift in the relation to time. Money is now seen as anchoring one in the future, whereas in the previous narrative it immured the individual in the tomb of his guilt.

The individual is put to the test by the demand for justification he addresses to the institutions. He is able to come out of this confrontation



with his stature enhanced. The weak have founded a morality of strength: it is, for them, "shameful to be ashamed." For the individual, this injunction means laying bare his identity. Like the slogans and practices of homosexual "coming out," it presupposes a new code of honor and appeals to a philosophy of overcoming.

In a deliberation within an open society, it is better to trust individuals for what they do and what they are. The rule that "I am what I do" prevails. Both the person making the demand and the one to whom it is addressed commit their identity. Both put at stake their place in a political community that is both national and international. For the claimant, the question that first arises is that of *ressentiment*; the value of his political project is crucial as his demand progresses. His interlocutor, responsible for the offense done to him, reflects on the meaning of his past acts and projects himself into the future. Both take their places in a dialogue that eventuates in a transfer that is both financial and identitary: the monetary sum involved equates with the shame felt by the payer; it equates with the creditor's release from shame.<sup>60</sup> This role-reversal also takes places when the payer is unable to honor his financial debt or if he escapes justice, is absent or declares himself insolvent. The duty to pay compensation is capable of creating a sense of obligation.<sup>61</sup>

### **Being in the World**

#### *The Paradox of Narcissus*

Realism leads to an illusory politics. It is the mark of a misguided amorality, based on a tragedy that is now a thing of the past. The Westphalian era was characterized by a simplistic idea: in the eyes of the scholar and the politician, morality was subordinated to politics.<sup>62</sup> Speaking in the name of a Christian realism, the theologian Reinhold Niebuhr stressed that the egoism of nations is "proverbial."<sup>63</sup> Patriotism had had force of law, he said, but it was in fact based on an unjust, perverse, tragic equation: on the battlefield the altruistic loyalty of man was transformed into an egoism of nations. Is this finding still wholly valid today? Contrary to what Niebuhr asserted in his day, morality is not now subordinate to politics. An opposite trend has set in: egocentrism and identity have brought about a self-interested moralization of states. The political, it is argued, has fully to recognize this demand for morality. The leaders still committed to the absolute autonomy of the political would, by so doing, regain a large part of the respect they have lost. By taking on board the humane principle, the politician broadens

his horizon and accepts the terms of a new force. On many points, the morality-based policies of the 1990s, for example, military intervention on humanitarian grounds, provide hope of reform.

For the individual, the question that first arises is that of his being-in-the-world. That question could not be answered without a call to discover the "elsewhere." Realism was a solipsism; the contemporary dynamic is a dialectic. The individual commits himself to self-discovery, taking the world as the stage for his quest. In recent years, democratic individualism has been characterized by an intense narcissistic component. This narcissism expresses itself in the various narrative devices privileged in fiction, in the "society of the spectacle," in the pursuit of self-preservation and preservation of one's body, or in the quest for identity. These various consumerist, aesthetic, and ontological choices anchor the individual resolutely in the international dimension. This narcissism is connected with the history of self and a fully genealogical quest: the individual wishes to place his history at the "center of the world." Being-in-the-world comes out of this narrativization of the individual in the context of the history of nations. This meeting brings together the two strands of *micro-* and *macro-history*.<sup>64</sup>

Genealogical narcissism calls for a politics that has accepted the downplaying of borders and distance. In many respects, this acceptance is implicit in the facts. The challenging of the boundary between domestic and international questions, the response made to the indictments of institutions by individuals, and the logic of "distant proximity"<sup>65</sup> are the pillars of this transformation.

One question raised itself imperatively. Do worlds exist where the evil one does is not known, worlds that one does not see (they are far away), that one does not know (only another interpretation of the world would give us access to them), that one denies (they are rejected by the unconscious)? Humanitarian exploration, competition over knowledge, and virtual history were the first vehicles for gaining an awareness of their existence. The position conquered by a therapeutic knowledge, closely or distantly attached to psychoanalysis—with its theories of trauma, acting-out, and care—was also a factor in this awakening. When the courts transformed themselves into outlets for mental suffering, when the victims of Apartheid appeared before the Truth and Reconciliation Commission, the question arose of the evil one had not known about. This negativity was lodged in man's innermost heart—that of the victim who discloses in his words the extent of his dread, and that of the accused who is commanded to unearth his most shameful motivations.

Ignorance of evil is no excuse—this is the law of disclosure for an individual who signs up to the tragic Freudian observation that “the evil self [is] the unconscious.”<sup>66</sup> Its corollary is the injunction to disclose this secret. The inner world reveals the treasures of the past buried away in the Pandora’s Box from whence flows an interrogation regarding responsibility. This introspective vocation originates, strangely, in narcissism and its affirmation: self-examination has become a democratic behavior that enhances one’s stature.

By accepting that bonds form between the inner world of memory and the external world of the earth, the political institutions have yielded on the monopoly on reason and accepted the terms of a “heuristic of the subjective.”<sup>67</sup> A rebalancing is at work: the inclusion of narcissism might be said to decenter the political from its soliloquy. Extreme individuality in morality has summoned up a politics of alterity in long-distance relations.

## CHAPTER EIGHT

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### *Does Cosmopolitanism Have a Future?*

The critique that follows the fall of the Berlin Wall bears the mark of the cosmopolitan project in two ways. At the level of ideas, cosmopolitanism is its horizon; it is a belief and a value around which moral entrepreneurs gather. And its advocates embody such ideas. Cosmopolitanism is already with us, and the experts in morality are the pioneers and pathfinders of this world to come. What might the cosmopolitan features of the moral critique be said to be? The corollary of emancipation from national tutelage is the autonomization of individuals; their knowledge of the world is greater and the scope of their imaginations is increased. The three liberalisms (economic liberalism, political liberalism, and liberal internationalism) are leading to a redefinition of authority, while law is developing to a considerable degree. The “enlighteners,” as Kant calls them, have extended their scope for maneuver substantially. The members of democratic societies display new forms of sensitivity to violence. In this sense, cosmopolitanism is the guiding thread and the horizon line of international criticism. If these observations turn out to be soundly based and survive the rigors of political attrition, it is legitimate to believe in an advance of cosmopolitanism. But what, more precisely, is the nature of the challenge it represents?

#### **A World Conversion to Kantianism**

Cosmopolitanism exists only through the response to the call it issues. Its engine is fueled by a logic of publicity that Kant was one of the first to put forward and theorize.<sup>1</sup> The aim of the cosmopolitan clarion

call is to bring about a global union whose anthem is perpetual peace. This return to Enlightenment thinking is surprising in its scope: those heralding it and arguing for it and the specialists in international affairs inspired by this idealism are extremely diverse.

What holds this heterogeneous cause together? This Kantian worldview has shaped its own public forum for debate in Europe and America. The cosmopolitan idea has made headway through the works of Habermas and, for example, the discussion of Kantian peace by the British writer David Held. The career of this LSE academic is extremely interesting here. Since the Berlin Wall came down, Held has devoted his energies to a study of cosmopolitanism.<sup>2</sup> As an editor at Polity Press, he has published several works on the subject and the theoretical circles within New Labour of which he is a member have also had the benefit of his knowledge. He has initiated exchanges with other European intellectuals, such as the German sociologist Ulrich Beck. In the United States, traditional liberals such as Robert Keohane are working along similar lines. The cosmopolitan call covers a broad spectrum. Richard Falk, a Princeton professor and legal scholar, has also committed himself to this field, which crosses disciplinary, generational, and ideological barriers. Falk embodies a tradition of uncompromising criticism, as is attested by his very staunch opposition to the American state since the Vietnam War. Cosmopolitanism echoes the sound of the fall of the Berlin Wall. In this space of publicity, “words are deeds”: to speak the language of cosmopolitanism is to enact cosmopolitanism.

With this promotional success behind it, the idea has been seized upon by governments and has developed into an international code. It forms part of the very definition of power and has taken its place within institutions, most particularly within liberal states and international organizations. Cosmopolitanism is a social bond in the partner world.

Does cosmopolitanism have a future? Only by studying its various levels—the human, the political, and the institutional—can we come to grips with this question. Let us first examine its trajectory and its historical role. Cosmopolitanism operates on several timescales; it is an old idea that is still vaunted for its modernity. It is a movement driven by mediators, who are the promoters of this reformism, and their actions become more intelligible when we understand who they are and what they want. Does cosmopolitanism match up to the historical consciousness and architecture to which it claims allegiance? If these ideas of universality have found refuge in the present, are they capable of providing satisfactory responses by which to construct the world?

### The Modernity of the Past

Any history of cosmopolitanism must take account of the eighteenth century. Kant is a major reference, both from the philosophical and historical standpoints. The critique of metaphysics, together with the revolutions in Europe and the development of human rights, are the cornerstones of the cosmopolitan turn. It is, however, easy to go further back than this; the seventeenth-century philosophers of the law of nations worked toward the development of cosmopolitan universalism. Some analysts even go so far as to locate the origins of the cosmopolitan trajectory in Antiquity.<sup>3</sup>

Cosmopolitanism has manifested itself in several forms at various moments in history, most particularly when there was an imperative need to establish and justify the political and cultural expansion of Western societies. It is an ever-ancient present idea calling out to the future; it bears witness to a project. The cosmopolitan tradition has the world as its spectrum from both the temporal and spatial points of view. Cosmopolitanism is the guide for a curious gaze cast on an opaque world; it makes sense at points when people are uniting around the light.

Cosmopolitanism is committed to modernity for three reasons. It is future-oriented by nature. As a result, it is duty-bound to grasp the particularity of the present. When the cosmopolitan idea emerges, its pathfinders gear up with effective means of persuasion. At every period of history, idealists are fired by the desire for a posterity; cosmopolitanism is one of the aspects of the yearning for greatness that drives both politicians and intellectuals.

In the 1990s, cosmopolitanism at last fulfilled its destiny. Its publicity rose to match the height of its ambitions. This success was fueled by the course traveled throughout the twentieth century, when several preliminary stages paved the way for the rise of the cosmopolitan project in the years after 1989. The cosmopolitan movement advances by sedimentation; this tradition is a memory. It is inseparable from past gains: cosmopolitanism's references came out of the traditions of the twentieth century, complemented by the reinvention of the writings of the eighteenth.

### Universes of Re-Enchantment

Cosmopolitanism is, first and foremost, the grandchild of the idealistic Great Illusion of the early twentieth century, faithful to a more or

less fervent belief in law. In that world, the international organizations find themselves allotted a substantial role. The Briand–Kellog Pact, Wilson’s Fourteen Points, and the League of Nations are its institutional reference points. Despite the patent failure of these ventures, their spirit and intentions endured. They were sustained by the idea of a Europe of civilization and culture (represented by well-intentioned men of letters), fraternizing with an America as interventionist as it was altruistic.

This common matrix has given rise to very diverse reinterpretations. Wilsonianism is a constant of American foreign policy and manifested itself in several forms during the Cold War in such contrasting figures as Jimmy Carter and Ronald Reagan. The free interpretation of American idealism is also a feature of the post–Cold War period, as is attested by the two figures Bill Clinton and George W. Bush. In continental Europe, idealism made a comeback after 9/11. It showed itself, among other things, in the efforts of French diplomacy in its confrontation with the United States. It implies a legal approach and appeals to a cosmopolitan law of nations.

Idealism was weakened by the interwar period; with the coming of the Cold War, it might be said to have frozen to death. However, in this second phase, *deterrence*, which was the dominant nuclear strategy, was accompanied by a considerable advance in terms of *legislation*. Idealism was, admittedly, discredited as a model and cosmopolitanism was excoriated. But the creation of the United Nations was accompanied by intense bureaucratic activity. International law developed and established categories to which the various different international courts are now heir. Paradoxically, it was in the age of realism that idealism became codified. The Cold War turns out to have been less amoral than the realist narrative would have us believe.

From the 1960s onward, and especially during the 1970s, with *détente* aiding, liberalism made massive strides. The *good cosmopolitan* was ranged against the *selfish conservative*. Democracy was exported more and more, and economic liberalism was promoted with ever greater intensity. America, the figurehead of the “free world,” won out against the totalitarianisms. Peace movements, antinuclear demonstrations, and the denunciation of Apartheid were transnational moral mobilizations in embryonic form. In both West and East the protester made his appearance. The campuses were violently opposed to the war in Vietnam, Parisian intellectuals lambasted colonialism. Dissidents were welcomed as heroes. International criticism presupposes not just a supranational position, but a deliberate decentering from national ties

on the part of the person calling the world to witness. The cosmopolitan tradition had been characterized up to that point by *ideas* traveling; during “détente,” the cosmopolitans themselves “voted with their feet.” The harbingers of a new order learned the art of transcontinental travel and the “French doctors” of Médecins Sans Frontières came on the scene.

The fall of the Berlin Wall was the most decisive turning point in the cosmopolitan history of the last century. Each element of cosmopolitanism’s tradition was revived when its potential members manifested their belief in *the power (the omnipotence) of their ideas*. The collapse of Communism was the materialization of idealism. For several generations of admiring spectators, it signified that ideas played a preeminent role in international politics. The vision of a commitment that had the world as its stage was reinforced; it was not surprising to see the number of nongovernmental organizations increase exponentially.

This revolution had a twofold significance. Historically, it was a meeting of two generations. The heirs of 1968 had joined the middle classes and could not be deaf to this new internationalism. Without necessarily reflecting the aspirations of their youth, it satisfied their dreams of a new dawn; it was a time for celebration. Because of the historic moment the event represented, a dialogue was established between the mature generation and those newly reaching adulthood. The “1989 generation” entered politics. The grandchildren of 1968 suddenly learned internationalism and discovered their historical consciousness. Support for humanitarian causes, and the ability to travel and study abroad were the assets of these twenty-somethings who spontaneously showed their sympathy for cosmopolitan causes. The various movements came together under the banner of this cult of youth whose intrinsic qualities were enthusiasm and enterprise.

Idealism has a conceptual dimension. The years of the return to Kant also mark the decline of Marx and the rediscovery, in his stead, of Weber. The study of social movements also went through its cosmopolitan phase. Many years after the work of Peter Berger and Thomas Luckmann,<sup>4</sup> the constructivist project made a spectacular comeback. Its message was clear: values (or, for some theorists, language) construct the world of interests by orienting the way they are defined. Social science studies in the constructivist vein are extremely numerous.<sup>5</sup> International studies are, naturally, part of this: constructivism has become a school of thought that unites a younger generation of academics both American and European; this generation committed itself massively to the study of the role of ideas in world affairs. Constructivism is based on an



approach in which several disciplines are crossfertilized: international political studies, sociology, history, and philosophy. International relations, as Didier Bigo stresses, have become a "site." Postmodernism is one of the (high) plateaus on which these encounters take place.

Constructivist sociology is the mirror of the world it seeks to explain. Like the demonstrators of international post-materialism and the doctors of "distant suffering," it postulates that ideas circulate, that materialist realism is dead and buried. The proponents of constructivism are brothers to the harbingers of social change; this is a time of pragmatic compromises. The 1968 generation is colluding with the 1989 generation around a neo-Weberian consensus that is not averse to drawing on Foucault's theoretical contributions. The real is constructed: there is a bidirectional passageway between the cosy corridors of the lecture theaters and the steep, noisy avenues of history. The post-Cold War period is explained by constructivism; constructivism is the wide-eyed child of the fall of the Berlin Wall.

The election of George W. Bush and, above all, 9/11 mark the appearance of a new "regime of truth." The *good Roman* and the *bad Pagan* are the two most emblematic figures of this historic turn. Neo-conservatism would at first sight seem to be based on the anti-cosmopolitanism of the inward nationalist turn: this was the specific character of an unambiguous program drawn up a year before the elections as a reaction to the unbridled humanitarianism of the previous government. The events of 9/11 drastically reversed the new administration's priorities. The event brought about a major commitment to matters international: democracy now had to be exported—by force, if need be. The dissidents, marginals or outcasts from the humanist establishment, gathered themselves around a conservative hardcore whose tradition had its home in Chicago. Its guardians of orthodoxy celebrated the virtues of Greece, the canons of Western literature, and the effectiveness of economic and political liberalism. The unilateral justice camp has both practitioners and advisers among its ranks, both traditional conservatives and former ultra-Leftists turned muscular Republicans. Imperial cosmopolitanism is imposed from the center. Loyal to the old imagery of Rome,<sup>6</sup> it welcomes a plurality of gods in exchange for the application of the political rules of the imperial heartland. It upholds security in the various regions of the world by putting in place local potentates who are won over to its procedures and values. This sovereignism is accompanied by a normativist internationalism: the Empire believes in the differential value of regimes and shouts this from the rooftops.

Like Leo Strauss, who now made his appearance in the world of international affairs, it excoriates nihilism and relativism unilaterally and unrestrainedly.

### In Praise of Modernity

Cosmopolitan law and the democracy that embodies it are justified by a concept that has been empirically tested: “democracies do not make war on one another.” This intuition is derived from the Kantian tradition; it figures in the *Project for a Perpetual Peace*, though it is formulated differently there. For Kant, “republics” do not make war on each other. Taking the view that the democracies embody the extension of such republics, Liberal theorists initiated the debate on “democratic peace.”

Many practitioners, for the most part Americans and UN officials, joined in the discussion on this question. The idea was formulated initially as a hypothesis. In spite of some divergences relating to the attribution of the “democratic” label to certain states, the history of warfare more or less confirms this thesis, which derives its justification from its falsifiability. It gave considerable succor to the Liberal camp, which incorporated the theory into its doctrine. In practice, it proves the need for concerted action between the states promoting democracy—first, the United States and, to a lesser extent, Europe—and the UN. The international organizations that came out of World War II saw the basis of their operation confirmed; Kant figures as a reference in the Charter of San Francisco.

A number of knowledge games attest to the modernity of the cosmopolitan tradition. Michael Doyle, professor of politics and international affairs and former director of the prestigious Center of International Studies at the Woodrow Wilson School of Public and International Affairs, is one of the earliest and foremost theorists of democratic peace. Since the early 1980s he has published two long articles in which the reference to Kant is explicated and tested against the history of conflict.<sup>7</sup> His book on war and peace bears witness to his desire to generalize this argument more widely.<sup>8</sup> Doyle the theorist personifies the liberal cosmopolitan elite that has benefited from the post-bipolar moment. During the 1990s, he was called to high public office. He became an adviser to the secretary general of the United Nations. The 1990s were the years in which cosmopolitan ideas entered the professions and institutions of international politics.

**Cosmopolitanism and Power***The 1990s*

After the fall of the Berlin Wall, international relations came to be organized around three major forces: the American Empire, the international institutions of the UN, and open, free-market society. Each of these embodies different forms of power. The United States has the attributes of a structural power that is at once military, economic, industrial, and financial.<sup>9</sup> The international institutions are endowed with a certain (limited) military capacity; they have a normative power of legitimation and possess economic weapons through their member states. Open, free-market society is formed by the combination of economic and financial markets. The market is an international actor, chiefly through the companies within it. Economic power guides the decisions of certain states; liberal political and social ideas spread by way of the market.

These forces embody notions developed in more than one tradition. The decisions of American power arise out of what David Hume calls "jealous emulation."<sup>10</sup> Hume, who served several politicians and worked at the British Embassy in Paris, draws on ancient Greek models in describing the behavior of the nascent British Empire in these terms. Sentiments, admiration, the desire to be appreciated and to attract new partners guide the powers. This approach is part of Hume's general philosophy of associationism. The leading figures of the Scottish Enlightenment, and David Hume in particular, are regarded as the founding fathers of economic liberalism. Strength of conviction and the pursuit of consent are two of the major features of liberal power. This dimension is particularly important in grasping the role America assigns itself in the new cosmopolitan world.

The UN has adopted several features of the Kantian vision. Deliberation within an assembly of states is no longer hampered by bipolarity. Cosmopolitan law has come into effect and enquiry into the just nature of war is one of its mechanisms.<sup>11</sup> The Kantian republics are required to respect certain rules. They must avoid resorting to standing armies without, for all that, paying men to kill and be killed—in short, they must seek out an economic and moral system in which carnage and wars of extermination will be avoided.<sup>12</sup> Obviously, the development of trade is encouraged.<sup>13</sup> Implementing this conception, the states may at last be said to behave like individuals—drunkards having to pay for the broken crockery—having understood that it is in their interest not to destroy one another.<sup>14</sup>

Liberal, open, market society adopts some features of Popperian philosophy.<sup>15</sup> The advocates of the market favor the circulation of goods in the same way as they encourage the circulation of ideas, and in the international sphere, this shows itself in the form of the exponential development of the various markets of expertise. This “age of consultancy,” in which everyone becomes everyone else’s paid consultant, is symptomatic of the need and demand to submit institutions and rules to empirical testing. Experts open up their findings to debate; they live by their reputations and their ability to adapt to the obstacles reality puts in their way. This “falsifiability” of advice explains the welcome reserved by liberals and market practitioners like George Soros for Popper’s arguments. The theoretical imagination also occupies a large place in the demands for justification made by the market in its critique of governmental reason.

The relationship between these three driving forces and the clash between their governing ideas led to two types of sequences of events. First, the cosmopolitan age was riven by some profound contradictions. The desire to preserve their soldiers and the emphasis on international law lead Westerners to denounce genocides without being able to prevent them. The refusal on the part of the United States and the UN to commit troops to Rwanda and their passivity in the face of the carnage there provided one of the darkest pages of that disaster. The principles of law also came into contradiction with open, liberal society; this is attested by the emphasis on sanctions and the American legal “obsession.”

But the cosmopolitan era is not characterized solely by failures. The rise of military intervention on humanitarian grounds is the product of a virtuous circle. The three components of the international sphere worked in harmony to firm up the need for an intervention motivated by just sentiment and clearly conceived interest. This has led to a new orientation for law that is in phase with its most absolute moral arguments. The American government responded to the appeals against the initial decision over Kosovo, and the international organizations committed themselves to that province in the wake of the conflict. This achievement was a further shot in the arm for the proponents of the cosmopolitan era.

#### *The Post-9/11 Period*

The fall of the Twin Towers brought a change in the balance of forces and the framing of ideas. The United States decided on a policy of

preventive force that was contrary to international law. Its military operations undermined the United Nations; law was now just a means for legitimizing force and was not able to restrain the empire. A shift was underway. What were the main sequences in that shift? The democratic peace doctrine grants a particular status to the democracies, distinguishing them from other regimes. This finding is justified at the empirical level: authoritarian regimes, dictatorships, and theocracies are more inclined to take up arms than democracies—there have been a great many wars between “illiberal regimes.” But, on the other side of this same coin, relations between the democracies and the other regimes can be said to be less stable than relations between democratic societies. The Straussian idea that relations between democracies and non-democracies are unstable has, over time, been confirmed. The good polity is driven by moderate desires. In its relations with the others, its leaders display wisdom, not justice. Enrichment, a necessity to ensure the development of the polity, is self-limiting.<sup>16</sup> *A contrario*, as Strauss stresses in his revisiting of Thucydides’s narrative of the Peloponnesian War,<sup>17</sup> other political systems do not know the virtues of this rational moderation. This discrepancy underpins one of the neo-conservatives’ justifications of their policy.

The tectonic plates were shifting. The United Nations’ Kantianism was sick and the empire absorbed Leo Strauss. For its part, liberal open society remained on its liberal course. Unilateralism created a fracture in UN cosmopolitanism. It prompted middle-range powers such as France and Germany to take back the cosmopolitan torch, forcing them to assume the potential burden of a victory of their ideas and considerably reinvent their action agendas. These two nations were, however, novices in this field. Law serves as a pillar for the elaboration of a morality (international morality is the recurrent message of its appeals). The confusion between politics and law is, however, detrimental to the coherence of the whole; multipolarity is often confused with multilateralism, whereas the one belongs to the outdated register of *Realpolitik* and the other originates in juridical idealism.

The empire was faced with the contradictions of its unilateralism. A coercive policy of the maintenance of order posed a number of problems. American power draws all its force from the correspondences between its military policy, its economy, and its society. Conservative unilateralism was of a nature to disrupt this equilibrium. It undermined the liberal principles of public freedom that made American civil society distinctive. The policy of preventive war was uncertain, not just because it moved away from international law and liberal

internationalism, but also because it weakened the *hegemon* by forcing it to justify itself. Unilateralism aroused negative cultural reactions detrimental to its pursuit of consent, forcing the United States to admit new members, particularly the countries of Eastern Europe, into the coalitions in which it was the central force: the “new Europe” was forged by the “Vulcans.”<sup>18</sup> The continental powers, France and Germany, were marginalized and, in this regard, this decision broke radically with the classical orientation of a geopolitics traditionally favored by realism.<sup>19</sup> It was a revolutionary time for strategic thinking (and military policy). This unilateralism raised questions at the economic level. Was it rational to invest so much in a war-fighting policy? Would security policy not come into contradiction with powerful economic interests, particularly where Saudi Arabia was concerned?

Liberal open society and its markets were not very sensitive to these changes. The expertise market continued to develop, the internationalization of trade was not threatened, and the various virtuous ideas of the 1990s spread to many countries. The advance of conservatism provoked liberal open society on the terrain of ideas and forced it to display imagination.

### *Does the Best of Regimes Exist?*

American unilateralism revealed to the world the weaknesses of the UN system. It was all the more vital to reform the institution both from necessity and from a concern for legitimacy. In order to prevent countries adopting a go-it-alone strategy, the UN system would have to equip itself with a policy for keeping order that was both more coercive and more flexible, which would enable it to act in situations like the one in Rwanda or, more recently, in Sudan, and respond to urgent security needs.<sup>20</sup> Could we still pretend to be unaware of the traditional questions that had for fifteen years compromised the operation of this body? The Security Council does not provide the best reflection of the hierarchy of economic and political power among the various states. If it were more united, Europe would be able to speak with a single voice within the UN's forums. It would also be better if the NGOs and civil society were incorporated into the institutional process.

This debate required a new approach to human life. Morality and law were called in to pronounce on human specificity, living creatures, and bodies. Drawn from the cosmopolitan tradition, a moral and juridical law would meet this expectation. At the national level, when Western societies were confronted with questions that directly affected

the order of bodies—the wearing of the veil, female circumcision, the death penalty, euthanasia—the need for humaneness in law was clear. At the international level, the urgent need for a “humanity’s law”<sup>21</sup> was all the stronger as a result of the nature of the conflicts, and the relations between cultures involved in them. The place humanitarianism occupied in the international law rules of the criminal tribunals and, above all, within the ICC, was the mark of this new awareness. The politics of bodies was central, and the extension of the notion of persecution, together with its incorporation into the category of crimes against humanity, indicates a sense of a true global biopolitics.

It was imperative that the efforts made in fields like the battle against AIDS or, indeed, the criticism of the death penalty be continued. Illness and execution were two attacks upon the body and aroused an emotion that was not without its noble sentiments. A policy of “world civility”<sup>22</sup> would take on board these protests and transform them into a productive vehicle of global education. To gather around these causes was to generate politics—encouraging interaction between the various bodies of expertise united around human specificity. With these various exchanges behind them, the debates around the death penalty and AIDS were productive universally.

Urgency was one of the major characteristics of international politics, its dilemmas calling for swift responses. In the cosmopolitan sphere, the debating of injustice constructed norms and deflected politics from the illusory coldness of realism. Pragmatism was the order of the day. On this account, the battle against the death penalty had two main aims: the denunciation of its use in certain states of the United States and in non-liberal countries such as China. The advocates of this cause were subject to a performance requirement: to protest effectively against Texas or Arizona prison practices, a good knowledge of the law was essential; thwarting the policy of execution depended on its critics’ capacity to prove state error. In this way, the battle against the death penalty became a political exercise for novice cosmopolitans.

Support for AIDS research and for the care of AIDS patients was a real challenge in the development of principles of collective responsibility. Humanitarian and religious organizations combined here with economic entities and pharmaceutical laboratories. This goodwill showed up an aspect of collective action: the sharing of responsibility. Global collective responsibility is intersectoral; it necessitates a policy of mobilization in the name of common universal values capable of uniting various heterogeneous interests. These exchanges had the advantage of overcoming the failings of the various areas of market, research, and

charity. They stimulated thinking on the redistribution of resources. United around pragmatic objectives, the representatives of these different fields traded their particular characteristics, while correcting each others' failings.

### The Transmission Agents of Cosmopolitanism

What is the role of cosmopolitans in a world still divided into states? Three types of cosmopolitan players have come forward since the fall of the Berlin Wall and made advances in the causes they have defended. These harbingers of globalism are both members of elites and practitioners of "politics from below."

#### *A Cosmopolitan History?*

"Forgetfulness," wrote Ernest Renan, "and I would even say historical error, are crucial factors in the creation of a nation, and so the progress of historical study is often a danger for nationality."<sup>23</sup> Renan's thinking here is particularly modern. A growing number of historians have freed themselves from the aegis of the nation by strengthening their autonomy vis-à-vis the state. They have been the better able, as a result, to give a meaning to their critical function. This phenomenon has run alongside the reinterpretation of a Kantian history from the cosmopolitan standpoint and has occurred in highly diverse democratic societies—in Switzerland, Germany, the United States, or Israel. When they filled the courtrooms, historians were now increasingly there to uncover "state secrets" or, worse, to denounce the cold monster's lying.

This decentering from the nation state is linked to factors both negative and positive. The crisis of the state is encouraging skepticism of the expert to make itself heard. Academics now practice globalization and take their place in the virtue market. The history of the university is, admittedly, linked to the development of the state. However, global knowledge politics is fostering a critique of state authority. Networked historians promote cosmopolitanism through the debating of their work and exchanges between historians of different nationalities are increasingly frequent. Within the discipline of history, the study of identities and of micro-history has developed substantially. The analysis of these particularisms makes it possible to evaluate global phenomena even better and weakens the monopoly that the state had arrogated to itself over the writing of political grand narratives.



The question of objectivity arises here. Just as norms entrepreneurs are questioning and thwarting a realist view of the world, so are historians undermining the reality of the nation constructed by the state. This skepticism originates in a decision to speak in the name of subjectivities and identities, so as to cast a more satisfactory light on the universal. Is historical objectivity impaired by historians' multiple identifications? Quite the contrary: to explore world history, it is essential to possess this faculty of introspection and empathy. The critique of the lack of objectivity is losing ground to the idea that "history" lies in the mediation between the different national histories.

Two collective research projects illustrate this movement toward a global history. The U.S. Institute of Peace in Washington, in collaboration with Harvard University and, particularly, with the Sinologist and Japanologist Ezra Vogel, has devoted enormous resources to a project on the Sino-Japanese conflict during World War II.<sup>24</sup> The aim of the program is to produce a new history of the war in the Pacific by bringing the historians of these three countries together to work on the project. Diplomatic services are at the forefront here; this history of conflict has the objective of consolidating the bonds between these nations.

Historians were called on a great deal during the reparations crisis. Traditionally, in a country like France, the historical field was relatively tightly knit around a strong state. Historians supported and reinforced the idea and reality of the nation state<sup>25</sup>; the historian could be said to have allegiance to the history of his/her state. The intrusion of the other's gaze disrupted this *dirigisme*. Research by non-European historians on states that collaborated with Nazism has whipped up strong reactions of disapproval to their methods and aims. The Mattéoli Commission, for its part, used historians that were exclusively of French nationality. This was not the case in Switzerland. Cosmopolitanism is one of the main characteristics of the Bergier Commission, on which historians from many countries contributed helpfully to the work.<sup>26</sup>

### *Cosmopolitan Intellectuals*

The trajectory of this cultural cosmopolitanism—both its luster and, at times, the limitations inherent in its action—is largely due to the intellectuals who are, so to speak, its stage directors. Cosmopolitanism is linked, by its origins and, above all, because of its most recent advances, to a number of thinkers, writers, philosophers, and specialists in international affairs.

The issue of cosmopolitanism lies at the heart of a crucial debate on the relation between “the West and the Rest,” and two figures are particularly emblematic of this polemic on account of the mark they have left on a field of study and on the orientation of the political sphere. Bernard Lewis and Edward Saïd are the two contrasting characters in this debate on the relations between West and East. Their often frontal opposition is equaled only by the profound similarities between their respective cosmopolitan trajectories. Both were men of culture from prosperous backgrounds who made university careers for themselves in the United States. They were not natives of that country: the one is British, the other Palestinian. Their identities are both complex: they belong to two diasporas. Lewis is Jewish, while Saïd, the Christian, lived in Jerusalem, Cairo, and the Lebanon. Edward Saïd’s father possessed an American passport and his son had ties, from the outset, to the American world. Lewis enjoyed an education with inputs from several cultures; he is a scholar of Islam and of the Ottoman Empire. Saïd had a perfect mastery of a great many codes; he drew his inspiration from the multicultural education he received during his childhood in Cairo and subsequently in the United States. The two scaled all the rungs of the ladder of academic excellence; they frequented the same Ivy League circles in the North-East of the United States, Lewis obtaining a chair at Princeton, Saïd at Columbia. Geographically, they were separated by only some tens of miles. Lewis taught Arabic and Islamic studies, Saïd was a professor of comparative literature.

The opposition between the two broke out at the point when Saïd published his work on Western representations of a mythic Orient.<sup>27</sup> The book rapidly became a manifesto around which the various critiques of Western imperialism and its domination of the Arab and Muslim worlds coalesced. Saïd was one of the first to produce a synthesis of a cultural theory and a political theory applied to thinking on the Middle East and its contemporary problems. This vehement explanatory enterprise, the ultimate aim of which was fiercely critical, was underwritten epistemologically by Foucault and Gramsci. The Western gaze had, said Saïd, “constructed” the Orient by assigning it a place that conformed to colonial interests. The representatives of knowledge—particularly, archaeologists—were the servile apostles of this mission.

Lewis opposed this argument, which was aimed indirectly at his own specialist work, finding it factually inadequate and questionable on account of the *ressentiment* on which it was built. From the late 1970s onward, however, Arabic and Islamic studies came to be structured

around this bipolarity. At the cosmopolitan level, the two theories of culture of Lewis and Saïd reveal a deep-rooted division that accentuates as one crosses the boundary between the academic world and the public sphere. Lewis is faithful to cosmopolitan values rooted in Western culture and attached to an Enlightenment tradition. He takes an unfailingly critical approach to the development of societies and states in the Islamic world. One of his latest works, written for the general public shortly before 9/11, was published after the attacks.<sup>28</sup> In that book he defends the thesis of the decline of a civilization that had its golden age in medieval times. In Saïd's eyes, Lewis's work provided evidence of the Western cultural hegemony exerting its ascendancy over a protectorate. This ignorance of the "other" had, he said, perverse effects on the construction of states and politics in the region.

The similarities between the two men fueled a "narcissism of minor differences"; the violent disparities between them led them to occupy symmetrically opposite positions. Saïd became the spearhead of studies of the Arab world, in which he was accepted as one of the discipline's most theorists.<sup>29</sup> Lewis is recognized for his erudition, but he has not won the sympathy of such a majority of academics. Saïd occupied a position as an "intellectual." Europe is the home of this tradition, whereas American universities are, in the main, populated by experts who refuse to speak in generalist terms on the great questions of the day, and denounce the vain superficiality of such discourse. Saïd was not a specialist in the field he wrote about; it was his personal trajectory that had led him to take up his pen.

A deep, absolutely uncompromising rivalry set in between the two, taking the form of an opposition between two cosmopolitanisms. Saïd criticized cosmopolitanism in the sense of a Western universalism frozen in a dominating, conservative tradition. Lewis defended a cosmopolitanism based on a universalism that was (if necessary) to be imposed by force. His recent positions in favor of the Iraq war are faithful to this conception. For his part, Saïd denounced the injustice of the war and died a few months after the intervention.

Saïd practiced a cosmopolitanism of reconciliation through music, an aesthetic idealism that took the form of an itinerant "musical workshop" for young Palestinians and Israelis, which he led with his friend Daniel Barenboim. In spite, or perhaps because, of his incisive aggressiveness, Saïd was an attractive character. His tendency to engage in—often virulent—criticism was accompanied by a great capacity for introspection that defied conformisms and ideological apparatuses. Lewis did not attract sympathy from a public engaged in "good causes."

He was seen as an academic mandarin. His critics had their prejudices confirmed by Lewis's attitude, since he is not at all averse to lambasting political correctness.

The debates around these two figures reflect the violence and antagonism within the study of a region that, nonetheless, has need of peace. Lewis and Saïd encountered the ire of various groups who were up in arms against what they represented; they were seen as monsters or frauds. Lewis has been criticized for his insensitivity. He has, for example, been at the center of a polemic over the Ottoman Empire, having spoken out—in his description of the massacres of the Armenians by the Turks—against the use of the category of genocide. This has angered Armenian groups, who accuse him of protecting their persecutors. Saïd, who had in the past been dubbed “the professor of terror” by the journal *Commentary*,<sup>30</sup> was taken to task more recently after the publication of his last book, an autobiographical essay devoted to nomadism.<sup>31</sup> His critics accused him of having disguised some aspects of his existence. Did his cosmopolitanism not perhaps amount, they argued, to a mere PR construct?

### The Postmodern Moment

Saïd was one of the founding fathers of cultural studies. That academic discipline and arena of debate are at the heart of the new forms of cosmopolitanism. Saïd's last text puts the finishing touches to his *oeuvre*. *Out of Place* reveals genuine literary aptitude and lends artistic value to Saïd's testimony. This is a mark of the cosmopolitan. Artistic language is accompanied by symbolic acts that reinforce the cosmopolitan's status. On the strength of his talents as a literary critic (his first book was on Joseph Conrad) and his aesthetic vocation, Saïd debated with several artists; there was, for example, a meeting with Salman Rushdie. Extra-Western identities were, they argued, at the center of the renewal of world literature; postmodernism was doing its work.

In this dialogue, which takes the form of a manifesto, Saïd states the terms of his identification with the figure of the other. His models are critical Jewish intellectuals—Spinoza and Adorno. When he speaks of the Palestinians as a people, the identification with the Jews is equally essential: “We are the Jews of the Arab world,” he proclaims.<sup>32</sup> We have to pay heed to what he is saying here: the declaration is denunciatory in intent, since it tends to stress that the Palestinians are “victims of victims” (Saïd does point out that the Palestinians' persecution is much less tragic than the experience of their model). However, this

profession of faith is revealing, above all, of the connections between identities; it is a constitutive element in Saïd's narcissism and his identification with the Jews. Moreover, it underpins a social theory. At the collective level, cultures for Saïd are more or less malleable constructs and personal identities are composites—through sedimentation—of various identifications.

This conception of the human opens a space for debate. By taking into account the various different identifications of the self, the approach casts light on a plurality of intentions. Cosmopolitanism encourages reflection on how the balance is struck within the plurality of these intentions and identifications. At issue is the creation of the one out of the multiple: the plurality of the self shows itself to be indispensable to the debating of a conception of the just.

Edward Saïd provides the example of an innovative cosmopolitan criticism that derives its motivation from our contemporary age. Saïd's opposition to authority is a product of the fragmentation of identity. The oneness of power is stigmatized for its falsity: truth lies in complexity. States are not, he argues, the best representatives of concord; brutality and corruption are two of their facets. The human, by contrast, contains its portion of truth. When a public figure's personal dilemmas are expressed publicly, this disclosure has value. Awareness of the plurality of identifications facilitates this move, which is the first step toward recognition of the justness of the other's position. In this, aggressivity's defenses are partially bracketed out. Such a mechanism is all the more interesting in a figure like Saïd, given the very overt nature of his aggressivity.

Given the acknowledged ability of an intellectual to get to the bottom of his commitment and all its component parts, then, where there is disagreement, his critical appeal has a resonance within the opposing camp. The appeal to the human encourages other protesting voices to make themselves heard. It provokes adherence from one fraction of the other camp, when individuals are able to make explicit their multiple identifications. This disclosure arouses admiration and may lead to a critique of the opposing camp's official position: this is the *dialogue of intersecting disagreements*. There is a meeting between critics without those critics yielding over their specific positions and their own identity claims.

There is a moral and existential basis to this process; it can be explained in terms of a sociology of intellectuals. The rejection of a monolithic self goes together with the critique of national grand narratives. Saïd became a rallying point for the Israeli Left that distanced

itself from the traditional narratives of Zionism.<sup>33</sup> These intellectuals and academics began to speak out at the point when the new historians were publishing their work on the course taken by Israel—work at variance with the official state history. Saïd was invited to Jerusalem in 1998 by the Israeli Anthropological Association. The propagation of his ideas within the other's camp was assured. Ella Shohat, one of his students, now carries on his tradition.<sup>34</sup> Saïd's criticism won over not just postmodern intellectuals, but those Jews who, while defending the creation of the state of Israel, disagree with the inertia, and at times dishonesty and brutality, of power structures both in Israel and within the Palestinian Authority.

When carried out with discernment and talent, postmodern criticism has a major trump card over other confrontations with power. It draws on its conception of the individual to take an uncompromisingly complex view of the world. Human beings are ambivalent and their identities depend on multiple, often contradictory, strata of identification. The unveiling of identities not only enables one to form a better understanding of oneself, but presages a more adequate relationship to others.

### The Diasporas

Postmodernism has brought forth new forms of Enlightenment. Through the mirror-effect between the late eighteenth century and the fall of the Berlin Wall, the heirs to this double temporality are united around nomadism, on the one hand, and fundamentally elitist cultural centers on the other. Their preferred space is the American campus. Their successful reception within the universities is noteworthy and, in some cases, even worrying; it is at least annoying to the guardians of orthodoxy within these institutions. One of the most famous incarnations of this phenomenon was, very obviously, Jacques Derrida, for whom, "America . . . is deconstruction." In that welcoming land for academics and dissidents, a cosmopolitan call went out from the postmodern in diaspora. One of the reasons for such a success was the attractant and personificatory capacity of intellectuals of this type. By virtue of their belonging to one, or even several, diasporas, they provide living proof of what they argue; they *are* their message.

Diasporas play a substantial role in the shaping of cosmopolitan discourse by working also within the state. In liberal countries, in Britain or the United States, many political leaders claim membership of a minority. These two Anglo-Saxon countries have a growing number of

elites of Indian origin within their ruling circles. Whether as advisers, editorialists, or, indeed, as senior civil servants, Americans or Britons of Indian origin have worked their way up to the highest level. There are many reasons for this integration: it has to do with the talent of the people concerned, their academic merits, and their capacity to master both Western and Eastern rules. These new intermediaries between the West and the Rest are symptomatic of the imperatives of international politics. Their integration is the continuation of a long tradition from which rulers have over the years benefited. In this genealogy of the transformation of pariah into *parvenu*, Fareed Zakaria from Bombay, a scholar, the scion of a prosperous family, the former managing editor of the prestigious journal *Foreign Affairs*, and an editorialist at *Newsweek*, could be seen as the new Disraeli or Kissinger.<sup>35</sup>

The criticism is often leveled at this cosmopolitanism that it is an elitist phenomenon reflecting the social origins and academic capital of the persons concerned. It would, consequently, be of limited significance, being confined to circles far removed from "social reality." However, the diasporas are social phenomena that transcend the little world of polyglot, postmodern intellectuals. There is a "cosmopolitanism from below" that deserves to be encouraged.

The presence of diasporas in the Western countries makes research into the dialogue between particularisms and universalism even more essential. The practical reasons for these migrations are well-known. They have to do with the disparities between North and South, low-cost travel, and the welcome afforded by some countries that make the formation of diaspora networks possible. One of the modalities of adaptation to the host societies and of resistance to the discrimination their members very often suffer is the valorization of identity. The aesthetics of diaspora is one of the features of the contemporary world today.

Such a cosmopolitanism has an influence on certain decisions, both as a result of these communities' lobbying and of the idea those in power have of their role. Three questions have to be confronted in the relations between the host nation and these newcomers: hospitality, inclusive universalism, and liberating trade. Only the practical resolution of these questions can give us grounds for vesting hope in a cosmopolitan politics.

When we examine certain examples, the chances of success seem very slight. The case of African Americans in the United States or of Algerians in France reveals a very difficult situation for the minorities

that have settled among the descendants of their oppressors. We have to concede that there are no obvious signs of hospitality here. Integration into the universalism of these nations is very patchy. Few elites have formed to trade with their country of origin.

Happily, there are more satisfactory cases. Cubans and Chinese are not deeply discriminated against in the United States; the rules of hospitality are more or less followed, while differences are respected. These diasporas trade in quite a sustained fashion with their countries of origin. The first anti-Castro Cubans did not have cosmopolitan characteristics: they were used by the American state in its struggle against Communism. But the second generation is much less ideological and more integrated into the mainstream of American society. This peaceful rootedness encourages these young people to discover their roots through cultural and economic exchanges. The sums of money remitted to their families who have remained on the island are substantial (alongside tourism, they represent the island's main resource). This generation is working for an end to the embargo. The 1990s encouraged them to distance themselves from the ossified narratives of the Cold War.

### The Marriage of Idealism and Skepticism

Besides, various *evidence* suggests that in our age, as compared with all previous ages, the *human race* has *made considerable moral progress*, and short-term hindrances prove nothing to the contrary. Moreover, it can be shown that the outcry about man's continually increasing decadence arises for the very reason that *we can see further ahead*, because we have reached a higher level of morality. We thus pass more severe judgements on what we are, comparing it with what we ought to be, so that our *self-reproach increases* in proportion to the number of stages of morality we have advanced through during the whole of known history.

—Kant, *Political Writings*, p. 89

Illusions need not necessarily be false—that is to say, unrealizable or in contradiction to reality. For instance, a middle-class girl may have the illusion that a prince will come and marry her. This is possible; and a few such cases have occurred. That the Messiah will come and found a golden age is much less likely... Thus we call *a belief an illusion when a wish-fulfilment is a prominent factor in its*



*motivation*, and in doing so we *disregard its relations to reality*, just as the illusion itself sets no store by verification.

—Freud, “The Future of an Illusion,”  
*Civilization, Society and Religion*

Does the belief in cosmopolitanism have a future? Let us take as our starting point two dynamic principles that have within them their own view of the world: these ideas are making substantial advances today and are crucial to the development of cosmopolitanism. The 1990s revealed a—potentially fertile—deep ambivalence: they revived the idealist flame, but they simultaneously produced an increased skepticism toward religious or political grand narratives. Caught between these two forces of attraction, how can human beings assess the distance separating them from the world?

Our relation to the world depends on our capacity to confront the apparent contradiction between these two terms and to combat absolutist temptations. Extreme idealism is unsatisfactory, on account of the teleology it most often reflects. Kant observes a historical progress of sensibility (manifested most notably in our increasingly vehement reactions to the spectacle of evil); the historicity of sensibility is, however, in contradiction with the teleology of which moral consciousness might be said to be one of the foundations. The course of history may be reversed: morality both thrives on its advances and has to undergo regressions.

Skepticism and the exposure of the illusions that apparently serve as screens for reality also raise serious problems. Skepticism is, admittedly, a vehicle for enhancing awareness. However, though it is its own end, it is, most importantly, an inhibition of action. Moreover, the validity of generalized skepticism in respect of the collective grand narratives is, in its Freudian formulation, theoretically fragile. The psychoanalytic approach to collective illusion is not solidly founded—and this is the case with all Freudian social theories when they project analytical grids developed in the clinical practice of psychoanalysis on to collective phenomena.<sup>36</sup> Ultimately, stubborn skepticism is just as naïve as unalloyed idealism.

Despite these problems, these two trends within modernity are essential contributions to the development of a cosmopolitan consciousness. To combine their qualities would seem to be to attempt the impossible. Kant puts the emphasis on sensibility and the renewal of the moral consciousness. In Freud, autonomy has a different status. Consciousness is examined through the prism of suspicion. The critique one directs toward oneself has several faces: it is either enlightened, salutary self-examination or the

symptom of guilt. By freeing themselves from blame, human beings distance themselves from the aggressivity of which guilt is one mechanism; they move toward a more constructive position.

Cosmopolitanism is a religion of liberation from the shackles of distance. The traditional egoism of nations can be seen as no longer representing the only law of international behavior. Bringing distant reality closer, both spatially and temporally, has an innovatory effect. Contemporary hyperrealism—the omnipresence of the representation of what is distant—has not only reduced spatial and temporal distance, but forces the individual to decenter his gaze from the ties of the near-at-hand. Death in war is a significant example. The representation of death in combat certainly occupies a larger place on the public stage than other deaths that take place in our more proximate daily life. Road accidents and fatal illnesses are much less spectacular than the carnage caused by a shell or a bomb. The traditional conception of a secular death, defined by the solitary condition of the dying man<sup>37</sup>—a hidden death, which we are loathe to represent—is challenged at a profound level. One does not die alone; the international scene is a scene of compensation for the anxious gaze of man haunted by his finitude. The fear or repression of death near-at-hand has the effect of deflecting attention to more distant death, which necessarily brings it closer.

Idealism and the growing capacity to challenge the powers that be, which wish always to conceal their misdeeds, foster a more attentive observation of the real, even when that real is distant. Death in remote parts is also less anxiogenic than “banal” decease, the last destination of ordinary Westerners in a hospital corridor or an anonymous road accident. Paradoxically, opacity makes the international scene attractive. The desire to avert one’s eyes from the most immediate spectacles of suffering is one of the variables in this change: “elsewhere” would seem to be more interesting than here.

This transformation is linked to another historical dimension: the transition from the age of exploration by way of the archaeology of the pyramids to the new “archaeology” of identity. The “genealogists” involved in researching into unclaimed bank accounts and the historians who specialize in paid research into the economic history of families whose assets were seized are the unexpected entrepreneurs in this revolution in historical approaches.<sup>38</sup> The age of exploration of the geographical world has given way to the age of exploration of alternative worlds. The exploration of facts is accompanied by the exploration of values, this latter assuming a crucial place. The explorers of injustice would seem to have learned to defy the narratives of a geography

of states by promoting a—necessarily subjective—human geography, and one conducive to debate, even though it takes a polemical form. In the theater of war, the experts who exhume the bodies from the mass graves of Rwanda or Kosovo are symptoms of that same “will to know” that embeds the accounting of suffering in the archive. Forensic anthropologists, anthropologists specializing particularly in the exhumation of bodies in the wake of genocides and in the interpretation of the violent acts that led to the death of the victims,<sup>39</sup> are a pendant to the genealogists in the reparations field. One finds the same alliance between a range of forms of expertise that foreground objectivity—anthropology and medicine—and the interpretation of hatred and passions requiring an exploration of bodies and subjectivity.

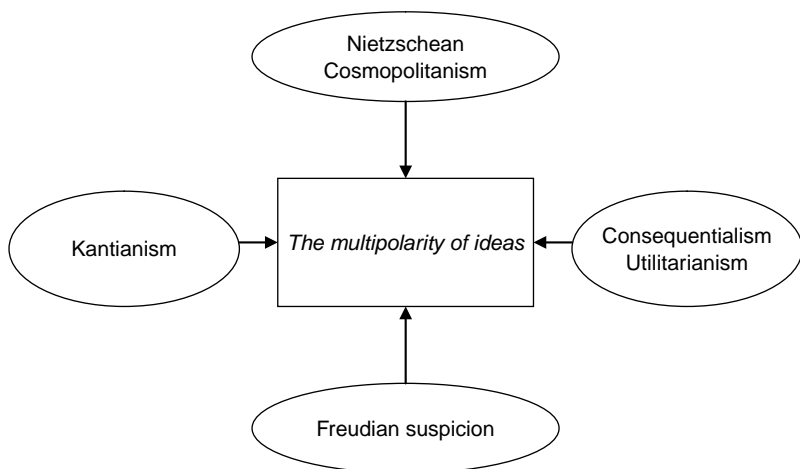
Skepticism has one last major effect on idealism. It is only because of the Freudian requirement for increased skepticism that the Kantian advance has come about. The suspicious approach to our “highest level of morality” has precisely had the effect of increasing our exigencies with regard to sensibility. This is doubtless one of the paradoxes of Freudian thought. Rooted in skepticism, as is attested by Freud’s letter to Einstein on war, it cannot help but aspire to a certain idealism. The dialogue between these two sides of human nature has an impact on the relationship to international affairs. It brings what is distant closer by prescribing a diversion of the gaze through identity.

### *The Theater of the World*

The theater of the post-bipolar world is a four-part cosmogony. Preceding it in time, one vision turns out to be essential: the reappropriation of Nietzsche in the 1990s. Nietzsche both proclaims and reflects the fragmentation of identifications, the “critique by fragmentation” of power and the narcissistic nomadism of the diaspora. He is the standard for an international politics that yields to postmodern appeals.

For Nietzsche, Europe is a field of forces. The confrontation between cultures is tragic and salutary. It is a pivotal moment, the transition from “great sickness” to “great health.” The 1990s are a decade in which an acute form of sensitivity is expressed in the full light of day. From a Nietzschean perspective, this is the moment of the “*redde rationem*,” the symbol of a changeover, of a “transvaluation of values.”

Nietzsche also proclaims another facet of contemporary cosmopolitanism. Europe is the theater of a hybridized aristocracy. This is even truer of America. This melting pot enables a unity of opposites to come



**Figure 8.1** The multipolarity of ideas

about. National, psychological, and social characteristics are intermingled. For morality, this intermixing involves an incorporation of skepticism into its genealogy.

Three other poles are added to this Nietzschean base: a Kantian and *idealist* imagery (by extension, the Enlightenment), a *consequentialist and utilitarian* moral calculation (moral evaluation), and a Freudian distrust of official narratives (the distance established by *skepticism*). This quartet is itself cosmopolitan; it is a graphic representation of the trajectory of the West from the eighteenth to the twentieth centuries. The edifice so constituted makes light of incompatibilities between its various authors and combines schools of thinking within a highly heterogeneous ensemble.

### *The Geometry of Politics: Multipolar Thought in a Unipolar World*

The plurality of this multipolar thinking is the reflection of one of the major characteristics of a unipolar world inherently tilted toward the West and the United States. This heterogeneous edifice reflects the multicentric character of the plurality of the nongovernmental world. Its four components are the coordinates of the way the world currently leans (figure 8.1).

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## CONCLUSION

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### *Pragmatic Revolutionism*

The world that had rid itself of the Cold War began anew with a Romantic ode. Words had pride of place in the new order of things; the language of “transition” was symptomatic. The phrases expressing the “fall” of the Berlin Wall, the liturgy of the “truth” and “reconciliation” commissions and the mantras of “reparations” were the main formulas in this bewitching lexicon. The 1990s were hailed by a siren song; the end of Hegelian history and the coming of the Kantian world of rights between them betokened its beginning (and triumph).

These discourses should not be seen as a reliable picture of the world in which we live or, indeed, as an evaluation of the conditions and achievements of morality. These things they are not. Hegelian teleology is, indeed, contradicted by the intensification of international relations leading to a world that is anything but predictable and very far removed from the pacified vision supposed by that grand narrative. Admittedly, the body of human rights developed on the international stage and was incorporated into the existences of its protagonists. But these rights were not, for all that, the absolute rules of international affairs. They were a Western platform, around which was organized the pursuit of a useful consensus, image, and faith, inspiring a goodwill, the efforts and effects of which are not to be downplayed.<sup>1</sup>

### **From Romanticism to Revolutionism**

The original Romanticism of the post-Cold War period gradually settled into a state “beyond,” an ulterior state in which its ethos, the reforming vision of revolutionism, was sublimated by reason. The

politicians and theorists fighting under this banner agree on one point: the world's structures are not fixed. In the name either of a preferable order or of the call of the absolute, the world order can and should be changed. This theory stands opposed to realism. This logic of change contrasts with the properly conservative, static dimension of the balance of power. The revolutionary brand also differs from rationalism. The members of that school take the view that the world order is arranged around stable, rational principles that are, in the main, the rules of law, which organize international life by permitting cooperation between institutions. Realists claim to draw their inspiration from Hobbes and Machiavelli, rationalists from Grotius.

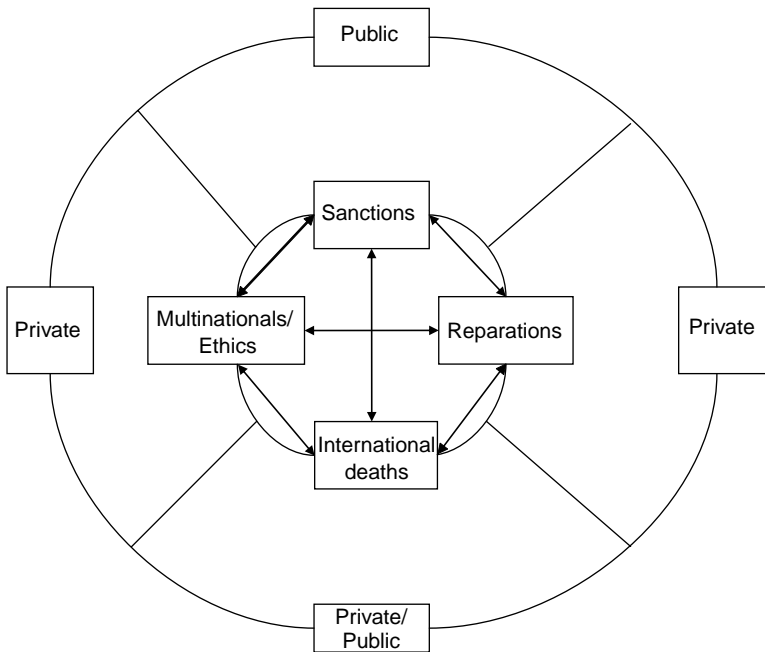
The call of revolution has its place within a historical dialectic.<sup>2</sup> It can be said to win out over an exhausted, outdated realism, and takes hold at a time when the balance of power is fracturing. Unipolarity replaces bipolarity, and the empire takes on the policing of the world by drawing from its prophetic tradition the messianic resources that establish it in that role. The excess of rationalism, a veneration of international law, may be said to lead to setting up law as the main engine of radical change: it is the presage of the revolutionist moment. The Wilsonians draw on the language of law in order to pacify the world through democracy; they would go so far as to lead their troops into a global revolution. Unlike realism and rationalism, the revolutionist philosophy is, to say the least, full of contrasts. It can be said to have two main forms. The first of these is humanistic. Morality and the appeal to humanity are the distinctive features of this idealism: its references are Kantian. The second is intransigent and can be religious or secular, Rightist or Marxist: theocracy, Leninism, or fascism are its main expressions.

At the fall of the Berlin Wall, there was a great temptation to profess a politics of the first type and believe it had come into being. After the collapse of the Twin Towers, a number of frightened critics saw the American reaction and the war on terror as prefiguring the second type. Might there, they asked, have been a revolution within the revolution? The adoption of these schemas leads to a confusion of discourses and of political and moral analysis. The idealism of an enlightened bourgeoisie, unbridled enthusiasm, and the coercive imposition of law are all three at work in the pre- and post-9/11 world. Humanism is, admittedly, one of the marks of the post-1989 years. And in a hackneyed form, Straussian thought is, of course, one of the features of American politics after 9/11. But coercion inspired by a relatively severe ethnocentrism already prevailed during the 1990s, as is attested by the economic sanctions and war-fighting coalitions set in place by the United

States. Moreover, certain measures that belong to the former, humanist register were introduced in the field of reparations and anti-AIDS policy in the post-9/11 period.

**Revolutionism and Pragmatism**

The two extreme categories of revolutionism are simplifactory and both are ill-suited to the analysis of the contemporary world. The fall of the Berlin Wall led to the emergence of a very particular order, which we refer to as “pragmatic revolutionism.” That order overarches these two extremes. Its regime is resolutely consequentialist. It favors the criticism and exposure of offenses committed in the political or economic fields, and advocates the application of context-specific measures. It develops in a unipolar world with liberal inclinations; empire is the crucible of its emergence. Pragmatic revolutionism is a dynamic



**Figure C.1** Revolutionism and pragmatism. Moralizing international relations: public and private driving forces.



based essentially on the oscillation between the private and the public. The events of 9/11 subsequently gave this an absolutist inflection, but did not lead to its overthrow.

The main impetus for this change comes from the private sphere; its impact on the public space has been decisive. The major issues of the post-bipolar world form an interactive ensemble (figure C.1):

1. The morality of capitalism is indissociable from thinking on sanctions. In the former case the initiative is private; in the latter it concerns the public authorities. The moral critique of the multinationals leads to new forms of sanctions, put in place by states with the aid of the market (“smart sanctions” and the Global Compact). The denunciation of the damaging effects of sanctions lends greater legitimacy to boycotts that are seen as performing more effectively.
2. Sanctions and reparations belong to the register of punishment and tort law. Reparations claims involve applications of pressure that are forms of public or private sanction. Sanctions programs often make provision for reparations (following the sanctions against Iraq, that country was required to make reparation for the harm done in the war on Kuwait).
3. New reparations claims depend on a way of viewing international deaths. Reparations are demanded on grounds of the suffering caused by war and a new conception of the victim.
4. The critique of international deaths and the re-enchantment of capitalism are linked. A certain view of war has prompted investigation of the role of economic “collaboration.” Sensitivity to the pain and suffering caused by forced labor has fostered a new approach to violence and international deaths.
5. The critique of capitalism and private claims for reparations are linked by a mirror-effect between past and present (the denunciation of Total in Burma, and reparations on the grounds of slave labor during World War II are examples of one such parallel).
6. The denunciation of sanctions and the critique of international deaths have one major point in common: denunciation of the direct and indirect deaths caused by conflict.

### Moral Knowledge

Pragmatism is doubly in play in this revolutionist schema. At the practical level, revolutionism emerges from a particular context—the erosion

of belief in grand narratives. Its voice ratifies the passing of an age when judgment was arrived at on grounds of religion, the nation, or the absolutism of reason. The critique of governmental reason is a political translation of this pragmatism that is in phase with advanced modernity. At the theoretical level, its argumentational form echoes the pragmatist philosophies of William James, Charles Sanders Peirce, or John Dewey and the contemporary interpretations of that movement in the work of Hilary Putnam or Richard Rorty.<sup>3</sup>

Pragmatic revolutionism is heir to a revolution in thinking. Scholars and experts were the harbingers of this logic of change. The will to knowledge found expression first in a perspectivization of reality. In their desire to explain the present, the various knowledge professionals engaged, implicitly or explicitly, in the multiplication of possible worlds,<sup>4</sup> and the comparison of parallel virtual worlds made its appearance in the public sphere. This increasingly specialized knowledge then led to a moralization of the relation to the world: the superimposition of universes that are the products of explanation was conducive to making claims in the name of justice. The knowledge specialists, the reparations lawyers, and sanctions economists formed “epistemic communities.”<sup>5</sup> These technicians became moralists, sometimes even without realizing it. Their activities extended into the moral sphere and this conferred a new status on them: each epistemic community was potentially a “moral epistemic network.” Thus the art of knowing, in its contemporary form, gives birth to an art of judging.

### Is Ignorance Immoral?

The American approach to the events of 9/11 casts light on this phenomenon. The moral role of knowledge was at the forefront of the activities of the commission charged with investigating the action of the American public authorities on terrorism, in the light of the attacks on New York and the Pentagon. The staging of the commission’s hearings and the unfolding of its work took place against a backdrop of profound doubt. *Is power not without knowledge?* The answer to this question shapes the formulation of a second one: *Is ignorance (of danger) immoral?*

Several thousand witnesses appeared before this bipartisan assembly chaired by a Republican. The public hearings at which Richard Clarke, the former U.S. official in charge of counterterrorism, and Condoleezza Rice, who, as national security adviser, was one of the key figures in the Bush administration, gave their testimony were

particularly decisive. These were broadcast on television. At the end of the investigations, the Final Report, though available free on the Internet, appeared in book form and rapidly became a best-seller in summer 2004.

It was the aim of the members of the Commission to bring together the most exhaustive survey of empirical and analytical knowledge, in order to identify the gaps in American security. The debates soon became heated. They were, quite naturally, structured in counterfactual terms: *what would have happened if. . . ?* Adopting this perspective, the nature of the action and the responsibility of each single link in the chain could be elucidated. The moral criterion adopted by the Commission, particularly in its sternest questions to the members of the Bush administration, was a classical one: an action is just if the agent who carried it out could do nothing else that would have produced better consequences.

The audience was not unaware of playing an important role in this drama: it was the cathartic center of this pre- and postmodern tragedy. The families of the victims applauded, wept, and embraced the witnesses, while others walled themselves up in disapproving silence. Several versions of the tragic events held the audience spellbound. Before the report's publication date, the chair of the Commission gave his impression: things could have been different if a strong-arm policy had been conducted against Al-Qaeda ("the whole story would have been different"). Was this all a tragic human *error*? The accusation became all the weightier when Clarke, presenting his version of the facts, reported that, thanks to the "Presidential Daily Briefs" prepared for George W. Bush, the government had information on the preparation of Al-Qaeda attacks on the U.S. homeland in August 2001. Clarke began his hearing solemnly with apologies to the families and a request for forgiveness from them, recognizing his responsibility and hence that of the government in this failure. He presented himself as the hero in a crusade against the aberrations of "intelligence."

The White House did, of course, try to head off these accusations by declaring that the government "had done all it could"; this defense was also adopted by Madeleine Albright, secretary of state in the previous administration. The tragedy would seem to be assuming the features of *inevitability*. Rice clearly implied this at the beginning of her presentation: no miracle intervention, no "silver bullet" could have averted the fateful event.

On what grounds, then, did the authorities stand accused? The basis of the charge was a questioning about knowledge in a world that the

state ought to apprehend in a manner commensurate with its complexity. Rice's position, as shown by her testimony, was a delicate one. As an academic with a career behind her and a former professor of international relations with a reputation for conscientiousness, she was under attack from critics mounting a moral challenge over her political responsibility on the grounds of her knowledge. "Knowledge" has to be understood in two senses here: first, empirical knowledge of the information held by a government, the intelligence of the secret agents, its quality and dissemination; second, theoretical knowledge, the framework within which international relations and foreign policy are elaborated. The criticisms were particularly incisive in this latter area. While she was a professor at Stanford and the provost of that university, Rice had a reputation for knowing the names of the Soviet officials by heart. But what use is the study of the USSR for governing in the twenty-first century? Three chapters of the textbooks on international relations of the last fifteen years had been literally "skipped": the primary role of transnational actors and the social sphere; the overlap between the domestic and the international; and the fragmentation of the state apparatus. Lastly, the lacunae in these fields opened up a fourth aspect of contemporary international life: the moral responsibility of institutions, which are today required to be accountable for their actions.

The policy carried out by the Bush government on its accession to power ran exactly counter to what could and should have been suggested if these fields of knowledge had been taken into account. That policy aimed to strengthen the U.S. national interest by falling back from the Middle East, while privileging bilateral relations with China and Russia, a neo-isolationism that, despite itself, failed in domestic security terms. It is hard to say today whether a different line of action would have been able to prevent the attacks. However, a different policy *could* have produced better results. Why, then, was a different policy not chosen? The state has to bear responsibility for the choice of the knowledge it uses and for the narrow definitions of frames of analysis that it suggests or, indeed, imposes. While the Americans have universities at which the world's finest specialists teach, particularly in international relations, and the system of critical peer review and student evaluation is a guarantee of seriousness and effectiveness, why did the authorities call on only incomplete knowledge—knowledge that was, in the event, unsuited to the contemporary context? The answer to this question, which also concerns other Western states, is very difficult to admit: the emperor has no clothes. Questioning the infallibility of

the authorities confronts them with two questions, which they are for the moment incapable of answering convincingly. What can the state do to conduct its activities in dialogue with a body of knowledge that indicates to it that its power is missing? How can it acknowledge its lack of knowledge when it is doing all it can to ensure that nothing escapes it? There is, however, a possible democratic way out here: to expose “political intelligence” to a greater degree of debate by reducing ideological differences, which are merely masks for ignorance. The publication of the Final Report of the Commission’s work is very clear on this point. It lays out the failings of the American administration, which put its collective responsibility at issue.<sup>6</sup>

### For a Relativism of Justification

Though it is a sign of the times, might not the morality of *redde rationem* be dangerous? Like a certain democratic fickleness, might not pragmatic revolutionism be superficial and changeable? This is the opinion of two of its main opponents. Revolutionism is, in the first place, politically risky. It may be said to be a passion-based logic that finds mere pretexts—improper sources of justification—in reason or interests. Pragmatism is also a moral tradition that is not above reproach, particularly when it finds nourishment in postmodernity. Removing the sacred aura from moral reason, pragmatism is said to pave the way for value-relativism. As its critics stress forcefully, it is pernicious and goes so far as to do down the idea of truth.<sup>7</sup>

What responses can be given to this rejectionist front? First, it must be said that the dispersed deployment of democratic reason does not worry the pragmatists. In their view, it is coherent with the relatively libertarian and, in that regard, fertile dynamic of postmodernity. At the moral level, the demands at the heart of the revolutionist change are essentially ways of making international action coherent for the purpose of forming a judgment. The competition in which moral entrepreneurs engage and the rules to which they subscribe in taking part in that contest do undeniably lead toward a relativism. But that relativism relates to justification.<sup>8</sup> A statement is valid and the grounds underpinning it are well-founded up to the point when a new justification throws it into question.

What is the core of pragmatic revolutionism? The truth regime of the post-Cold War period undergirds an international political and moral economy. The battles over justification are fought around two

main ideas: reasoned belief that honesty pays and the desire for a war-fighting science based on the sparing use of physical violence.

Is this progress? Pragmatic revolutionism does not go so far as to call for progress: it distrusts the idea. Progress bowed out of the democratic scene some time ago. Despite some appearances in hollow, bombastic discourses, it is scarcely given house room now. Nor has thinking on international affairs invited it to its idealist banquet. What remains? By introducing a relativism of justification, pragmatic revolutionism establishes *progression* as a criterion of evaluation, political objective, and moral rule. A salutary step forward for the world (and everyone in it).

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## NOTES

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### Acknowledgments

1. Monsieur Jourdain is the character in Molière's *Bourgeois Gentilhomme* who finds, to his enormous surprise, that for many years, quite without realizing it, he has been speaking "prose" [trans.].

### Introduction

1. The phrase comes from the late-eighteenth-century poet Friedrich Schiller ("die Weltgeschichte ist das Weltgericht"). It comes from his poem *Resignation*. See Schiller, *Werke* III, pp. 61–62. It is found later in §340 of Hegel's *Elements of the Philosophy of Right*, p. 371.
2. In 1996, in the case of Kant, on the occasion of the bicentenary of the publication of "Perpetual Peace." The 350th anniversary of the Treaty of Westphalia of 1648 was celebrated in 1988. The figure of Grotius was fêted at that time, his *On the Law of War and Peace* (*De Jure Belli ac Pacis*) having been conceived and published in 1625 during the Thirty Years' War (1618–48), at the end of which the treaty was signed.
3. The expression was coined by the anthropologist Clifford Geertz in his "Description: Toward an Interpretive Theory of Culture." See *The Interpretation of Cultures*, p. 5.
4. Among the many theoretical references and various interpretations of this model of analysis, one of those to which we feel closest is by Jepperson, Wendt, and Katzenstein, titled "Norms, Identity and Culture in National Security" in *The Culture of National Security*, pp. 33–76. Our analysis emphasizes more the role of nongovernmental agents and concentrates on the moral dimension of norms.
5. This constructivism involves a discussion with political and moral philosophy. We are close here to a normative vein of analysis in international relations that stands opposed to a neutral, distanced view of politics excluding the analysis of moral obligations and values. See Frost, *Toward a Normative Theory of International Relations*, pp. 26–41.
6. Pharo, *Morale et sociologie*, p. 152.

### One The 1990s

1. "A state is called the coldest of all cold monsters. Coldly lieth it also; and this lie creepeth from its mouth: 'I, the state, am the people.'" Nietzsche, *Thus Spake Zarathustra*, XI, "The New Idol." This expression is borrowed by Stanley Hoffmann in his call for the moralization of international relations. See Hoffmann, *Duties Beyond Borders*.



2. Kissinger, *Diplomacy*.
3. For a study of the representations of the state through the portraits of its leaders, which shows how an aesthetics of coldness precedes and reinforces the theories of international amorality, see Conomos (2004): pp. 75–90.
4. Taking his lead from the sociologist Erving Goffman, Robert Jervis was the first to put such an analysis together. See Jervis, *The Logic of Images*. For a more contemporary discussion of the role of the emotions, see Crawford, “The Passion of World Politics,” pp. 116–156.
5. As Luc Boltanski reminds us, the notion of *theatrum mundi* is a very old one, dating from the eighteenth century. It characterizes rather well the scene in which actions are oriented by the images and representations of self and other. See Boltanski, *La Souffrance à distance*, p. 45.
6. Machiavelli, *The Prince*, VI, p. 6.
7. Carl Schmitt (1996a).
8. Josselin and Wallace (eds.), *Non-State Actors in World Politics*. This model was devised by Rosenau in *Turbulence in World Politics*.
9. This category is imported from the sociology of Howard Becker. See Becker, *Outsiders*, p. 148; Nadelmann, “Global Prohibition Regimes,” pp. 479–526.
10. We may refer here to the indices of economic transparency—a new measure of a country or of a company’s honesty—drawn up by NGOs such as Transparency International.
11. Financial ratings, humanitarian work, and trials affect the image of states or of the various international power centers.
12. Pharo, *Morale et sociologie*, pp. 9–10.
13. Chaumont, *La Concurrence des victimes*.
14. Smith, *Foreign Attachments*; Shain, *Marketing the American Creed*.
15. Smith, *America’s Mission*.
16. Pierre Hassner refers to this phenomenon as “Wilsonism in boots.”
17. As Freud pointed out, Wilson was the son of a Presbyterian minister and that heritage had a major role in developing his worldview. Before being elected president of the United States, Wilson did in fact teach at the University of Princeton, of which he was also the thirteenth president. That university embodied and still embodies a model of rigor and excellence associated with Protestant culture. Freud and Bullitt, *Thomas Woodrow Wilson*.
18. Loh, “A Stripped-Down Conception”; Kagan, “The Benevolent Empire,” pp. 24–35.
19. “Lines” referred to as “road maps.”
20. Brilmayer, *American Hegemony*.
21. Boli and Thomas, “INGOs and the Construction of World Culture,” pp. 13–59.
22. Sheffer (ed.), *Modern Diasporas*.
23. www.ictj.org. With Latin American experience in the field of democratization behind it, the ICTJ has taken a hand in the reparations program currently under examination in Peru.
24. The definition of these norms forms part of American “soft power.” Nye, “Soft Power,” 153–171. Soft power differs from—and complements—exclusively military and strategic power.
25. Gentili, *De jure belli libri tres*. first published in 1612. Grotius, *The Rights of War and Peace*, first published in 1625.
26. As the sociologist Robert Bellah has so well demonstrated, there is in America a “civil religion” that is ready to welcome the different faiths in the name of the existence of a divine all, while retaining a Protestant stamp of a messianic, voluntaristic character. See Bellah, “Civil Religion in America,” pp. 1–21.
27. Max Weber, *The Protestant Ethic* (fifteenth impression). First published in 1904–5.
28. Luke 16:2.
29. Castells, *The Information Age*.
30. Conomos (2000).
31. Keck and Sikkink *Activists Beyond Borders*.
32. Dezalay, *Marchands de droit*.

33. As an illustration, but no less revealing for that, we may take the Paris Institut d'Études Politiques, where this trend toward the globalization of higher education through competition is in evidence. See "La politique internationale de Sciences Po," *Les Dossiers thématiques de Sciences Po* (2003). And not only this kind of Parisian institution is affected by this dynamic. For example, in 2003 on a political science postgraduate diploma course at Clermont-Ferrand, one student in every two was not from France. At that same university there are no fewer than six hundred Chinese students.
34. The concept "rise in generality" comes from the sociology of Luc Boltanski and Laurent Thévenot.
35. James Rosenau introduced this notion of "cascades" to analyze the highly reactive relations between non-state actors and states. See Rosenau, op. cit.
36. Badie and Birnbaum, *Sociologie de l'État*.
37. Rosenau, op. cit., pp. 435–440. Badie, *Un monde sans souveraineté*.
38. Foucault, "Cours du Collège de France," pp. 14–16.
39. Van Ham, "The Rise of the Brand State," pp. 2–7.
40. Rosenau, *Turbulence in World Politics*, op. cit., pp. 429–430.
41. Oscar Wilde, "De Profundis." For a literary, imagistic analysis of this singular, yet no less exciting, view of the world, see the essay by the novelist Emmanuel Carrère, who expatiates on Wilde's remark. Carrère, *Le Déroit de Behring*, p. 42.
42. The counterfactual model applies to the past (this is the commonest case, where it is a question of modifying one of the occurrences of an individual or collective past and reconstructing ex post facto "the history that did not happen"), the present, and the future. Counterfactuality in the present aims to establish scenarios within a field of possibilities. When projected into the future, counterfactuality proposes future scenarios that contradict the most probable ones: "If industrial societies continue to use oil in the coming decades (the most probable case), many environmental problems will occur; consequently, it would be preferable to imagine an alternative energy source that could be used to get around petrol shortages (counterfactual history in the future)."
43. This film is taken from the novel of the same name by Philip K. Dick, first published in 1956. See Dick, *The Minority Report*.
44. For a French-language site devoted to uchronias, see [www.noosphere.com/heberg/mota/uchronies\\_francophones.htm](http://www.noosphere.com/heberg/mota/uchronies_francophones.htm).
45. Counterfactuals are, to use David Lewis's expression, "possible worlds." See Lewis, *On the Plurality of Worlds*, pp. 1–5, and *Counterfactuals*, p. 185. For an application of the idea of possible worlds to the study of politics, see Elster, *Logic and Society*, pp. 48–63.
46. These are works grouped around the question that can be encapsulated in the words "What if?" See Ferguson (ed.), *Virtual History*; Hawthorne, *Plausible Worlds*; Fay, "Unconventional History," pp. 1–6; Rosenfeld, "Why do we ask 'What if?'" pp. 90–103.
47. The counterfactual approach undermines historical determinism. See Ferguson, op. cit., p. 44 and following.
48. The implicit reference here is to the endlessly repeated exhumation of scandals from the years of the Vichy regime in France. See Conan and Rousso, *Vichy. Un passé qui ne passe pas* [trans.].

## Two Is There any Shame in Being Cynically Realist?

1. Among the opponents are Attac, José Bové, Sami Nair, and Ignacio Ramonet. Among the sympathizers are Jacques Attali, Peter Berger, Alain Minc, and Kenichi Ohmae.
2. Bunge, "Realism and Antirealism," pp. 207–235.
3. In the thinking of Gianni Vattimo among others.
4. The chair was established in 1919. Carr occupied it from 1936 to 1947.
5. Koskeniemi, *The Gentle Civilizer*. See, particularly, chapter six, "Out of Europe: Carl Schmitt, Hans Morgenthau, and the Turn to 'International Relations,'" pp. 413–509.

6. *Ibid.*, pp. 436–437.
7. Morgenthau, *La Notion du "politique" et la théorie des différends internationaux*.
8. This is the key idea running through Kissinger's thesis and first work, which opened up a university career for him. See Kissinger, *A World Restored*. This same idea is found in Schmitt, *The Nomos of the Earth*, pp. 160–161.
9. Carr, *The Twenty Years Crisis*, pp. 79–81.
10. Lebow, *The Tragic Vision of World Politics*, p. 238.
11. Morgenthau, *Politics Among Nations*. See chapter fourteen, "Morality, Mores and Law as Restraints to Power," pp. 219–249.
12. *Ibid.*, p. 248. It should be noted that Morgenthau was opposed to the Vietnam War.
13. Hobbes, *Leviathan*, pp. 187–188; emphasis added.
14. He returns to the idea of "the state of nature" of the world of states in chapter twelve of his *De Cive*. See Hobbes, "De Cive," *Man and Citizen*.
15. We should remind the reader here that for Hobbes it is impossible to kill the Leviathan.
16. Hobbes, *Leviathan*, p. 188. As R. B. J. Walker very rightly stresses, this is one of the limitations on the use of the gladiator image pointed out by Hobbes himself. Walker, *Inside Outside International Relations*, p. 93.
17. Spengler, *The Decline of the West*.
18. Ratzel was the author of *Politische Geographie*, published in 1897. At the point when William II was seeking to rival the power of Great Britain, particularly at sea, Ratzel was a member of the German Fleet Association (*Deutscher Flottenverein*). For a critical genealogy of geopolitics, see Raffestin, Lopreno, and Pasteur, *Géopolitique et histoire*. See also Jacob, *L'Empire des cartes*.
19. Following the historian Leopold von Ranke, history must be studied as it happened: "wie es eigentlich gewesen."
20. Morgenthau's founding text provides convincing evidence of this. See Morgenthau, *Politics Among Nations*, p. 10. For an analysis of this ambivalence, see Beitz, *Political Theory of International Relations*, p. 20.
21. Kissinger, *A World Restored*, p. 316.
22. Kissinger, *Diplomacy*.
23. In the vein of Waltz's writings. See Waltz, *Theory of International Politics*.
24. Holmes, *On War and Morality*, p. 51.
25. The feminization of the profession also coincides with the appearance of new feminist moral theories applied to international relations. Among a (long) series of works, see Weber, *Faking It*. Feminist critique also advances a moral theory based on the notion of "care." See Robinson, *Globalizing Care*. For an analysis steeped in classical learning and rejecting unbridled postmodernism and the essentialist determinism of some feminist writings, see Elshain, *Women and War*.
26. Current American policy is characterized by a bellicose idealism. By contrast, under legal cover, French or German policy is more realist than is generally thought. America has a deep idealist tradition. It must be conceded that "old Europe" did not take this path.
27. Kagan, *Of Paradise and Power*. For an even more suggestive illustration, see "Texans are from Mars, Parisians from Venus," March 4, 2003, *Daily Telegraph*. [www.theage.com.au/articles/2003/03/03/1046540131448.html](http://www.theage.com.au/articles/2003/03/03/1046540131448.html).
28. Mandelbaum, "Foreign Policy as Social Work"; Hoffmann, "In Defense of Mother Teresa."
29. Mearsheimer, *The Tragedy*.
30. Gaddis, "International Relations Theory," pp. 5–58.
31. These neoconservatives take a harsh view today of the realism they accepted during the Reagan era. For them, too, the Cold War is over. This can be seen from the book by Irving Kristol's son William Kristol with Lawrence F. Kaplan, *The War over Iraq*. See in particular the chapter "A Typically American Internationalism: Bush II."
32. For an account of these perspectives, see Deudney and Ikenberry, "Who Won the Cold War?" pp. 123–138.

33. Ibid.
34. Introduced after the Soviets invaded Afghanistan in 1979.
35. Brooks and Wohlforth, "Economic Constraints," pp. 273–309; "Power, Globalization and the End of the Cold War," pp. 5–53.
36. Brooks and Wohlforth, "Economic Constraints," p. 277.
37. Data source: *ibid.*, p. 282.
38. Deudney and Ikenberry, "Who Won the Cold War?"
39. Keohane and Nye (eds.), *Transnational Relations; Power and Interdependence*.
40. In the journal *Atlantic Monthly* in January 1998. The career path and vocation of Soros are typical of the 1990s. Having survived the holocaust and escaped from Communism, Soros became a financier in the United States. He created an important hedge fund and threw himself into international philanthropy, particularly in Eastern Europe. A genuine Renaissance man, Soros surrounded himself with philosophers and social science specialists to take part in the adventure of "global open society."
41. Elster, *Closing the Books*; Teitel, *Transitional Justice*.
42. "Liberated" by the unblocking of the Security Council.
43. "Each society has its regime of truth, its 'general politics' of truth: that is, the types of discourse which it accepts and makes function as true" ("Truth and Power," an interview conducted by Alessandro Fontana and Pasquale Pasquino, June 1976. In Rabinov (ed.), *The Foucault Reader*, p. 73.
44. Schmitt, *Political Theology*, p. 5.
45. Hitchens, *The Trial of Henry Kissinger*. Eugene Jarecki has made a film of this book entitled *The Trials of Henry Kissinger*.
46. Some selected extracts: "Why should we flagellate ourselves for what Cambodians did to each other?"; "Covert action should not be confused with missionary work" (on the Americans' betrayal of the Kurds in 1975); "The illegal we do right away, the unconstitutional takes a little longer." For an online anthology, see [www.trialofhenrykissinger.org](http://www.trialofhenrykissinger.org).
47. Kissinger, "The Pitfalls of Universal Jurisdiction," p. 88.
48. Sloterdijk, *Critique of Cynical Reason*. See in particular chapter five: "In Search of Lost Cheekiness," pp. 101–133.
49. Schmitt, *The Nomos of the Earth*, pp. 262–266.
50. Falk (ed.), *Vietnam War and International Law*.
51. To follow the extensive news on this global indictment, see [www.icaionline.org/kissingerwatch](http://www.icaionline.org/kissingerwatch).
52. Let us recall that Kissinger was awarded the Nobel Peace Prize in 1973.
53. Falk, *Vietnam War and International Law*, p. 503.
54. Kiernan, *The Pol Pot Regime*. Kiernan's interpretation is broadly echoed by organizations such as Kissingerwatch.
55. The Internet is the place where many movements attempting to bring Kissinger to justice and to build up this issue in the public arena come together. Other works complementing that of Hitchens are going to press at the time of writing.
56. The substance in question is "agent orange," the effects of which have been disclosed to the general public. Actions have been brought against the chemical firms that marketed this product. These trials have a symbolic function; they contribute to transforming the way war is viewed.

### **Three The Re-Enchanted Critique of Capitalism**

1. "La Moralisation du capitalisme," conference at CERI, Paris, May 24–25, 2005. Proceedings published in *Revue internationale des Sciences sociales*, no. 184, June 2005.

2. This is the title of a work that has become a standard of popular management theory. Ohmae, *The Borderless World*.
3. Levi's was one of the first companies to withdraw from Burma in 1991. See Schoenberger, *Levi's Children*, p. 64.
4. <http://www.kmaglobal.com>. In 1999, Henry Kissinger was joined by Thomas McLarty, who had worked in the Clinton administration. The business sells its strategic consultancy services to the big multinationals.
5. Thanks to his reputation, Kissinger attracts clients who are eager to take advantage of his strategic advice transposed into the economic field. There is an amusing paradox here: both Kissinger's critics and his admirers agree that economics was his theory's Achilles heel.
6. Mandeville, *The Fable of the Bees*.
7. For a recent theorisation, see Ferber and Nelson (eds.), *Feminist Economics Today*.
8. At issue here is the transition from the "collective responsibility" of a state to the "social responsibility" of a company.
9. Drucker, *The Concept of the Corporation*. Originally published in the 1940s, this book has gone through many editions, the most recent of them in 1993.
10. Friedman, "The Social Responsibility of Business is to Increase Its Profits," *The New York Times Magazine* September 13, 1970, 122 (my emphasis).
11. Friedman visited the country in 1975 and gave a series of lectures there.
12. Bentham introduces the rule of the maximization of the happiness of the greatest number on the basis of the calculation of the consequences of an act chosen by an individual and puts the accent on the criterion of the measurement of pleasure. Bentham, *Principles of Morals*, pp. 1–7. Mill is interested in the maximization of the happiness of the greatest number induced by the choice of a rule that guides decisions. In *Utilitarianism*, Stuart Mill defined a virtuous and profitable system that connected economy, society, and culture (particularly education) in virtuous circles. Mill is also one of the first philosophers to have reflected from a liberal standpoint on the conditions for intervention to save peoples subject to the injustice of tyranny. Mill, "A Few Words on Non-Intervention" in Himmelfarb (ed.), *John Stuart Mill*, pp. 368–384.
13. Hirschman, *L'Économie comme science morale et politique*. Foucault carried out the genealogy of Liberalism. In his last writings, Bourdieu considers the incantatory role of the "morality" of the economy and its agents: it is simply one of the latest effects of domination that goes together with globalization.
14. Keohane and Nye, *Power and Interdependence*.
15. To use Jean-François Bayart's expression.
16. [www.soros.org](http://www.soros.org)
17. Jarniou, *L'Entreprise comme système politique*. See also the various strands woven around "citi-zen enterprise."
18. Managerial culture sets enormous store by this theme; it appears in the form of best-sellers in airport lounge literature. One of the most popular authors is George Gilder. See his article "Le mariage de l'ordinateur et du téléviseur," *Harvard-L'Expansion*, Autumn 1991: 32–47; also Gilder, *Wealth and Poverty*.
19. Keohane and Nye, "Power and Interdependence," pp. 81–94.
20. President Clinton's second inaugural address largely takes up this theme.
21. Mainly in the Interfaith Center on Corporate Responsibility in New York.
22. Based on the data from 2003 Report on Socially Responsible Investing Trends in the United States, SIF Industry Research Program, Social Investment Forum.
23. Data based on Social Investment Forum; Standard's and Poor, Javier Santiso (2003).
24. Max Weber, "Stock and Commodity Exchanges." *Theory and Society*, vol. 29. no. 3, pp. 339–371 [Translation of *Die Börse* (Göttingen: Göttinger Arbeitbibliothek, 1891)].
25. "The greater temptation to gamble that presents itself to the domestic public and the financial losses that they are responsible for inflicting upon themselves must be borne as part of

- the costs of *war* in the struggle among *nations* for a dominant economic position,” *ibid.* (my emphasis).
26. This expresses itself, among other things, through worries about people “gambling with the housekeeping money” and the (often justified) fear that small shareholders may become victims of the market (big investors are ahead of the market: they can wait for slumps to pass and sell when prices rise again). Max Weber picks up on this last point.
  27. The holders of virtuous shares are often linked to religious institutions. In some cases, religious organizations have created their own investment funds. Who could accuse nuns (in France, Sister Nicole Reille launched one of the first ethical investment funds in 1983) or Protestant ministers of falling foul of “the gambling demon”? [www.ethinvest.asso.fr/](http://www.ethinvest.asso.fr/)
  28. Vogel, *The Market for Virtue*, p. 11.
  29. For example: [www.ft.com/ethicalinvesting](http://www.ft.com/ethicalinvesting)
  30. Pava and Krausz, *Corporate Responsibility*. See, more particularly, “Appendix A: Summary of 21 Empirical Studies,” pp. 155–160. At a more theoretical level, recent works indicate that companies whose directors apply rules of societal responsibility survive and hence are competitive in a market in which their competitors do not apply the same principle. Frank, *What Price the Moral High Ground?* pp. 58–68.
  31. Mandeville, *The Fable of the Bees*.
  32. Fukuyama, *Trust*.
  33. Source Transparency International, [www.transparency.org/pressreleases\\_archive/2002/2002.05.14.bpi.en.html#bpi\\_l'humanitaire](http://www.transparency.org/pressreleases_archive/2002/2002.05.14.bpi.en.html#bpi_l'humanitaire).
  34. Data based on *Balance of Payments Statistical Yearbook*, International Monetary Fund, UNCTAD or national agencies, World Bank.
  35. Based on data from the UNCTAD World Investment Report, 2000.
  36. Transparency International came into being in 1993, founded by an official of the World Bank. The NGO embodies this synthesis between thinking on governance, moral reflection, and the consciousness of the 1968 generation converted to humanitarianism.
  37. Peters and Enderle, *The Emerging Relationship*. See, more particularly, “Appendix: The Survey NGO Expectations from Transnational Corporations (TNCs).”
  38. Winston, “NGO Strategies for Promoting Social Responsibility,” pp. 71–88.
  39. Such as Maximilien Rubel, the French translator of Marx. My thanks to Patrick Pharo for pointing this out to me.
  40. Fombrun, *Reputation*. [www.business-humanrights.org](http://www.business-humanrights.org).
  41. This was the case with Sister Nicole Reille in 2001.
  42. Matthew 28:19. This Gospel passage is the international manifesto of American fundamentalist Protestant missionaries.
  43. This relates to the scandal of unclaimed Jewish accounts and the role of the SNCF in the deportation of Jews to concentration camps. The SNCF provided the transport and, according to the victims’ lawyers, forced these “passengers” to pay for their tickets.
  44. Postelnicu, “Lawsuits Hit Non-U.S. Companies.” *Financial Times* Monday, September 27, 2004: 17.
  45. [www.fondationshoah.org/](http://www.fondationshoah.org/).
  46. Almost half of the companies in the SBF 120 (large companies and SMEs) achieve 40% of their turnover in the United States.
  47. The first country affected was the United Kingdom. The countries of continental Europe followed, first France and the northern countries, then Spain and Italy (this was the third wave).
  48. The late 1990s saw a shift from the frame of reference of ethics to that of human rights. Events on the international stage, which came thick and fast in this period, were the main reason for this change.
  49. Source: Ariel Colonos and Javier Santiso, from data that appeared in *Le Nouvel Économiste*, June 29, 2001: 38–49.

50. For a detailed study of this phenomenon and an economic analysis, see Colonomos and Santiso, "*Vive la France!*" pp. 1307–1345.
51. The French employers' federation, Medef, and the French diplomatic service encouraged investment in Cuba by organizing official visits and meetings with Cuban leaders, as the presence of many French companies in that country attests. The economic relations of France with its former colonies in Africa are also at stake.
52. Weber, *The Protestant Ethic*, pp. 93–183.
53. Durkheim, *The Elementary Forms*.
54. The ARESE consultancy, founded by Geneviève Ferone was made up of a team of young men and women of various nationalities (India, Italy, Brazil, United States). Today Geneviève Ferone is at the head of CoreRatings, a new structure within the large Fimalac holding company. The group also owns Fitch, the world's third largest ratings agency.
55. One of the most instructive texts in this field is, certainly, the treatise by Alberico Gentili. This early-seventeenth-century Protestant legal scholar is one of the founding fathers of international law and lays the foundations for an ordered international society (taken over by Grotius) and a global society. These principles underlie the Westphalian (interstate) order that was established in 1648 at the end of the Thirty Years' War. Gentili refers to the role of women and discusses it at several points. Women, he argues, should not leave the place assigned to them. When they cross the boundary between the private tasks, to which they should confine themselves, and public affairs, particularly in the political register of warfare, they should be severely punished. The paradigm of this sexual transgression is the figure of magic and cunning embodied by Joan of Arc. The stake is the proper punishment for this offense against nature and reason. Gentili, *De jure belli libri tres*, book II, chapter VI.
56. Since the late 1970s, the sociologist Ronald Inglehart has highlighted the rise of a preference for well-being over materiality. He has developed this thesis in more recent works. See Ronald Inglehart, *Modernization and Post-Modernization*. See, in particular, chapter five: "The Shift to Post-materialist Values 1970–1994," pp. 131–160.

## **Four What Justice for Economic Sanctions?**

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1. Thucydides, *The Peloponnesian War*, p. 304.
2. In full, Wilson's argument runs as follows: "A nation that is boycotted is a nation that is in sight of surrender. Apply this economic, peaceful, silent, deadly remedy and there will be no need for force. It is a terrible remedy. It does not cost a life outside the nation boycotted, but it brings a pressure upon the nation which, in my judgment, no modern nation could resist" (my emphasis). Wilson's Fourteen Points, set out after World War I, inspired the League of Nations Charter, which sets great store by the use of economic sanctions.
3. Saint Augustine, *City of God*, Book XIX, Chapter 15.
4. Saint Thomas Aquinas, *Summa Theologica*, II-II, q 40, art. 1 obj. 4.
5. [www.un.org/News/press/docs/1997/19970201\\_sanctions.html](http://www.un.org/News/press/docs/1997/19970201_sanctions.html). Source: President's Export Council, 1997, Carter Study, 2002.
6. [http://www.usaengage.org/literature/2002/2002sanctions/sanctions\\_country.html](http://www.usaengage.org/literature/2002/2002sanctions/sanctions_country.html).
7. Galtung, "On the Effects of International Economic Sanctions," pp. 378–416.
8. Some companies might be tempted to get round the embargo and continue to trade in a quasi-monopoly position with the pariah.
9. The competition was severe. Many other think tanks in Washington carried out their own analyses of this phenomenon, first among them the Institute for International Economics. The Brookings Institution also produced its own expert assessment, as did the Center for

Strategic and International Studies, and the International Peace Academy (the United Nations think tank).

10. These objectives are, e.g., democratization, the protection of minorities, and regime change. The most exhaustive assessment of the use of embargoes is, so far, the IIE study. Though its methodology has been contested, it provides an interesting and instructive reference. It is also an object of study itself, insofar as it has oriented many public debates on embargo policy. Hufbauer, Schott, and Elliott, *Economic Sanctions Reconsidered*.
11. At the Brookings Institution, the IIE, and the Hudson Institute.
12. From this point of view, declarations of war conform to another time scale. War is an indispensable, often urgent response to an unacceptable, critical situation. Sanctions signal an intention, whereas war is generally a point of no return in relations between the two parties.
13. In the case of multilateral sanctions, no partner enriches itself; no oil company should have profited from Iraqi oil wells before the UN Oil for Food program was put in place.
14. John Paul II chose to emphasize the traditional criteria of discrimination and proportionality. Cited in Siroco, "Free Trade and Human Rights: The Moral Case for Engagement," in Singleton and Griswold (eds.), *Economic Casualties*, p. 103.
15. [www.granma.cu/documento/ingles01/026-i.html](http://www.granma.cu/documento/ingles01/026-i.html).
16. The co-tenability principle in counterfactual analysis requires that the counterfactual history and the real history should be commensurable. If the course of real-world events had been changed by forming the counterfactual world (in this case, the embargo on Cuba was lifted and could cause the regime to fall), this imagined world would not be compatible with the initial conditions of the real world (the Cuban state led by Castro). The real and virtual worlds are not radically "alien" to one another; the counterfactual operation is something distinct from fiction. To be valid, counterfactual history also assumes that, in the imagined sequence, a relation of causality applies between an act and its consequence. See Fearon, "Counterfactuals and Hypothesis Testing," p. 193; Elster, *Logic and Society*, p. 177 and 183.
17. [www.usaengage.org](http://www.usaengage.org).
18. Hufbauer, Elliott, Cyrus, and Winston, "US Economic Sanctions." For a similar approach, see Singleton and Griswold (eds.), *Economic Casualties*, p. 103.
19. See earlier, "The Embargo against Cuba."
20. That is to say, a disaster affecting the whole of trade, with a few rare exceptions.
21. Simons, *Imposing Economic Sanctions*.
22. Garfield, *Morbidity and Mortality*.
23. Based on the data from the Garfield report. The full report is available at <http://www.casi.org.uk/info/garfield/dr-garfield.html>. The author's methodology is explained in this document.
24. This type of counterfactual is termed a "spotlight counterfactual." It is commonly used in moral indictment campaigns. See Turner, *Cognitive Dimensions*, 69 et seq.
25. Mueller and Mueller, "Sanctions of Mass Destruction," pp. 43–53.
26. On average, the GNP of the former is two hundred times higher than that of the latter. Hufbauer, Schott, and Elliott, *Economic Sanctions Reconsidered*, vol. 1, p. 98.
27. Among other things by blocking loans to the pariah government and freezing their leaders' accounts abroad.
28. Grotius, *The Rights of War and Peace*, pp. 1420–1456. See especially chapter XI, "Moderation Concerning the Right of Killing Men in a Just War," p. 1439. Grotius considers the clemency an army should show to civilians, and deals in particular with the case of women. They should, he writes, be spared, "unless they have committed some Crime which deserves a particular Punishment, or have usurped the Offices of Men" (p. 1442). Grotius's lenient approach implies an intuitive sense of the other when sparing him: "What we have said (of Women and Children) may be generally said of all Men, whose *Manner of Life* is wholly averse to Arms" (p. 1443; my emphasis).



29. Gentili is not very subtle in his perceptions of the differences between cultures: Mohammedans are suspect and heretics are dangerous by nature. Alberico Gentili, *De jure belli libri tres*, Book 3, Chapter XIX, "On Making a Treaty with Men of a Different Religion," pp. 397–403. As for Grotius, the question arises when he examines the fate reserved for prisoners captured by an army of a "barbarian" nation and their goods. Grotius, *The Rights of War and Peace*, Book III, Chapter IX, XVIII 3/XIX 2, pp. 1408–1409.
30. The diamond trade has been accused of financing and sustaining the war in Angola and Sierra Leone, where the precious stones have become "blood diamonds."

## **Five Can Reparation be Made for Historical Injustices?**

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1. White, "Making the French Pay."
2. *Ibid.*, p. 6.
3. Fisch, *Reparationen nach den Zweiten Weltkrieg*. Quoted in *Final Report of the Independent Commission of Experts Switzerland—Second World War*, p. 427.
4. Keynes left the negotiating table as a mark of his disagreement. According to Keynes, the main mistake consisted in making Germany responsible for paying Allied war pensions, which "tripled the total claim."
5. Keynes, *The Economic Consequences*.
6. Ferguson, *The Pity of War*. See especially "How (Not) to Pay for the War," pp. 395–432.
7. Garmise, "The Iraqi Claims Process," pp. 840–878.
8. Source of data: White, "Making the French Pay," p. 23. The German reparations (1953–1965) comprise only the sums paid to the state of Israel; they do not include individual compensation payments and payments to community organizations (for an overall assessment of the German reparations program, pp. 108–109).
9. Data source: Bundesministerium der Finanzen, *Entschädigung von NS-Unrecht*, Anlage 6 (1), p. 48.
10. Literally, "making good again."
11. See chapter three.
12. Particularly by calling for cancellation of the debt.
13. The report is available on the Internet at [www.sacc-ct.org.za/j2ksa/contents.html](http://www.sacc-ct.org.za/j2ksa/contents.html).
14. This is one of the possible interpretations of Don Juan's behavior and aristocratic attitude when he is confronted with his creditors. See Kofman, "L'art de ne pas payer ses dettes," in Kofman and Masson, *Don Juan ou le refus de la dette*, pp. 97–100.
15. Mead, "Interview with Edgar Bronfman Senior," p. M, 3, 1 (my emphasis). This declaration anticipates the tense relations between the American Jewish organizations and France in the context of the new Judeophobia that broke out some years later.
16. The denunciation of a particular case must always be articulated to general and universal conditions of injustice. Garfinkel, "Conditions of Successful Degradation," pp. 420–424. For an international approach structured around testimony and a historical perspective, see Drinan, *The Mobilization of Shame*.
17. One finds this notion in American law; it also corresponds to an Aristotelian conception of property. See Aristotle, *The Politics*, pp. 5–7.
18. Weber, "Critical Studies," p. 164. This reflection on causality was first published in 1906 as "Kritische Studien auf dem Gebiet der kulturwissenschaftlichen Logik," in Volume XXII of the *Archiv für Sozialwissenschaft und Sozialpolitik*, pp. 143–207. For a discussion in terms of the philosophy of history, see Aron, *Introduction à la philosophie de l'histoire*, p. 164; Ricoeur, *Temps et récit*, p. 257.
19. The various Swiss establishments imposed very strict rules; death certificates were required.

20. For an application to international relations, see Tetlock and Belkin (eds.), *Counterfactual Thoughts*.
21. Max Weber stresses the significance of this mechanism: "In order to penetrate to the real causal interrelationships, we construct unreal ones." "Critical Studies," pp. 185–186.
22. Weber points out the structural relation between counterfactual history and law.
23. Would wars in Africa be so long and lethal without the diamond traffickers? See the preceding chapter and the reference to Angola.
24. Goldhagen, *Hitler's Willing Executioners*; and *A Moral Reckoning*.
25. *Final Report of the Independent Commission of Experts Switzerland—Second World War*, pp. 122–24. Historians enquire here into the degrees of anti-Semitism in Switzerland. Can we, for all that, infer a collective responsibility of the population on the grounds of the historical finding of anti-Semitism? Historians have not resolved this debate.
26. The Two-Plus-Four Agreement, signed in Moscow on September 12, 1990, following German reunification.
27. *U.S. and Allied Efforts To Recover and Restore Gold and Other Assets Stolen or Hidden by Germany During World War II*, prepared by Dr. Greg Bradsher, National Archives and Records Administration, College Park, Maryland, for The Interagency Group on Nazi Assets, coordinated by Stuart E. Eizenstat, under-secretary of state for economics, business, and agriculture, special envoy of The Department of State on Property Restitution in Central and Eastern Europe, May 1997 (my emphasis). For a detailed counterfactual analysis of the lost opportunities to refuse to serve as bankers to the Nazis, see "Major Conclusions and Policy Implications."
28. During the war, this argument ("every penny invested in war materiel sent from Switzerland to Germany prolonged the war") had been formulated by Anthony Eden, the British foreign secretary, without having much impact.
29. Novick, *The Holocaust in American Life*, 228 et seq.
30. The legal situation of the various countries of Eastern Europe is currently very diverse. Several barriers exist that enable the various bureaucracies to protect themselves against restitution claims. This is particularly the case in Poland, where claimants must be Polish and reside in the country to have a right to restitution. Local Jewish associations have, however, obtained the restitution of some communal property.
31. Bundesverband Information und Beratung für NS-Verfolgte ([www.nsberatung.de](http://www.nsberatung.de)).
32. The "Memory, Responsibility and Future" Foundation (Stiftung, "Erinnerung, Verantwortung und Zukunft").
33. [www.riskinternational.com](http://www.riskinternational.com).
34. [www.wiesenthal.com/swiss/ancestry.cfm](http://www.wiesenthal.com/swiss/ancestry.cfm).
35. Feliciano, *The Lost Museum*. The original version of this work (*Le Musée perdu*) was published in Paris by Austral in 1995.
36. Black, *IBM and the Holocaust*. One of the rare academic works in this vast field is Simon Reich's pioneering work *The Fruits of Fascism*.
37. Sandholtz, "Dynamics of International Norm Change," typewritten document: 32.
38. Five companies are directly concerned by these trials: Aetna, New York Life, AIG, J. P. Morgan Chase, and First Boston Principal Group. *USA Today*, February 21, 2002.
39. Some, such as Nigeria, favored a call for the acknowledgment of the crime, without any reparations being demanded. The positions of the leaders were not, however, necessarily representative of the various countries' nongovernmental delegations.
40. We are here hypothesizing a situation in which Africans were deported to America and slavery was subsequently abolished.
41. Slavery is the reflection of a moribund or stagnant economy that covered only its own costs; one particularly finds this interpretation among Marxist economists.
42. Fogel and Engerman, *Time on the Cross*. For a discussion of these arguments, see Elster, *Logic and Society*, 208 et seq. It should be noted that Fogel had already carried out a counterfactual

- study by imagining the development of the American economy in the nineteenth century in the absence of railroads. Fogel, *Railroads and American Economic Growth*.
43. See the republication of a text that dates from the early 1970s: Browne, "The Economic Basis for Reparations," pp. 99–110. For a summary by one of the authors at the center of this debate: America (ed.), *The Wealth of Races*.
  44. *World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Statement by his Excellency Abdoulaye Wade, President of the Republic of Senegal*, Durban, September 1, 2001.
  45. Wijers-Hasegawa, "Wartime Killing Contests Trial Starts—Daughter Cites Pain from 'Groundless' Published Accounts," *Japan Times*, July 8, 2003.
  46. Reparations are part of the Geneva Agreement of December 2003 between Israelis and Palestinians; they correspond to a social demand that state institutions had difficulties answering, particularly during the Camp David negotiations.
  47. The Rome Statute of the International Criminal Court, article 75, "Reparations to victims," p. 43; art. 79, "Trust Fund," 44.

## **Six The Fear of Accountability and Calculating the Incalculable**

1. These different analyses are brought together in a collective work, each of them attempting to answer the question of American and British inaction. Neufeld and Berenbaum (eds.) (2000).
2. David S. Wyman (1984).
3. Quoted in Neufeld and Berenbaum (eds.), p. x.
4. Courtois, Werth, Panné, Paczkowski, Bartosek, and Margolin, *The Black Book of Communism*. As Stéphane Courtois notes in the first page of his introduction, having listed the various genocides and crimes perpetrated by twentieth-century states, "Communism has its place in this historical setting overflowing with tragedies." For an analysis of a moral approach to the Cold War, particularly where death inflicted by political regimes is concerned, see John Lewis Gaddis (1996): 140–2.
5. Ferro (ed.), *Le Livre noir du colonialisme*.
6. Source of data: <http://users.erols.com/mwhite28/war-list.htm>.
7. Clausewitz, *On War*, p. 83.
8. Thomas, *The Ethics of Destruction*, p. 1.
9. See chapter II and the frontispiece of the work.
10. Thucydides, *History of the Peloponnesian War*, book 5, chapter 7, paras 84–116.
11. Doyle, "Thucydidean Realism," pp. 223–237.
12. "But against Enemies, whom the Common-wealth judgeth capable to do them hurt, it is lawful by the original Right of Nature to make warre; wherein the Sword Judgeth not, nor the doth the Victor make distinction of Noent, and Innocent, as to the time past; nor has other respect of mercy, than as it conduceth to the good of his own People." *Leviathan*, p. 360 (chapter twenty-eight: "Of Punishments, and Rewards").
13. This passage continues as follows: "And upon this ground it is, that also in Subjects, who deliberately deny the Authority of the Common-wealth established, the vengeance is lawfully extended, not only to the Fathers, but also to the third and fourth generation not yet in being, and consequently innocent of the fact, for which they are afflicted..." (*ibid.*, p. 360).
14. Schmitt, *The Concept of the Political*, pp. 47–48.
15. Schmitt, *The Leviathan in Thomas Hobbes's Doctrine of the State*.

16. *Leviathan*, op. cit., p. 382.
17. Machiavelli, *The First Decade of Titus Livius*. Machiavelli takes the following example: The severity used by Brutus in preserving for Rome the freedom he had won for her, was not less necessary than useful. The spectacle of a father sitting on the judgment, and not merely sentencing his own sons to death, but being himself present at their execution, affords an example rare in history.
18. See table 6.4.
19. Depending on ways of counting and the distinction between those killed instantly, the deaths that followed in the course of the year and those that could be attributed to illnesses (cancers) contracted as a result of the explosion, figures vary. Instantaneous deaths amount to eighty thousand in the case of Hiroshima, to which must be added an equivalent number in the immediate aftermath and seventy-five thousand at Nagasaki.
20. Alperovitz, *The Decision to Use the Atomic Bomb*. This type of accusatory history is questioned not only from the factual angle, but also for its logic. For an interesting critique of hasty reconstructions and a proper use of counterfactual history (particularly of the criterion of co-tenability), see Gaddis, "On Moral Equivalency and Cold War History," pp. 145–147.
21. Frank, *Downfall*.
22. Each of the internees received a sum of twenty thousand dollars together with a letter from the American president Ronald Reagan in which he presented his apologies in the name of the American state to the victims of this discriminatory policy. A new letter of apology was sent by Bill Clinton to the former internees in 1993. In 1996, the American state granted compensation to Latin Americans of Japanese origin who had been subjected to similar treatment.
23. Offenstadt, *Les Fusillés de la Grande Guerre et la mémoire collective*.
24. Freud, "Introduction to Psychoanalysis and the War Neuroses," pp. 206–215.
25. Heidegger, "The Age of the World Picture" and "The Question Concerning Technology," in *The Question Concerning Technology*, pp. 115–154; 3–35.
26. Freud, "Why War?" pp. 195–215.
27. Gray, *Warriors' Reflections on Men in Battle*.
28. Kantorowicz, "Dying for One's Country," pp. 472–492.
29. Quoted in Devine, *The Influence of America's Casualty*, p. 9 (my emphasis).
30. Data based on Feaver and Gelpi, *Choosing Your Battles*, p. 154.
31. Beck, *Risk Society*.
32. In a work that is now a classic, Janowitz develops this theory, stressing that the distance between army and society must be reduced and the army must adapt to the rules of society. See Janowitz, *The Professional Soldier*.
33. Cited in Devine, *The Influence of America's Casualty*, p. 14.
34. Feaver and Gelpi, *Choosing Your Battles*.
35. *Ibid.*, p. 116.
36. It is common to refer to the "body bag" syndrome to indicate that Americans would refuse to support a war that is costly in human lives. For a critique of this allegedly "irrefutable" dogma, see Hosti, "Of Chasms and Convergences," in Feaver and Kohn (eds.), *Soldiers and Civilians*, p. 37.
37. Luttwak, "Toward Post-Heroic Warfare," pp. 109–122; "A Post-Heroic Military Policy," pp. 33–44.
38. Thomas, *The Ethics of Destruction*, 169 et seq.
39. Data gathered by Ward Thomas. *Ibid.*, p. 169.
40. In the United States, it is known as the "Powell Doctrine," from the name of its putative originator, the general who served the Bush administration as head of the State Department. Following the invasion of Iraq, the honor of American soldiers was tarnished as a result of

the abuse inflicted on Iraqi soldiers. It is a sign of the times that financial compensation is under consideration for the families.

41. Levy and Sznajder, *Erinnerung im globalen Zeitalter*.

## Seven Shared Responsibility

1. Human Rights Watch “substituted itself” de facto for the United Nations, who were unable to gain access to Jenin on account of the opposition they met with on the part of the Israeli government. [www.hrw.org/reports/2002/israel3/](http://www.hrw.org/reports/2002/israel3/).
2. According to the Israeli army, twenty-three soldiers died at Jenin.
3. Toulmin has reflected on justification, without taking international questions into account. He has also published a book criticizing cosmopolitanism. Toulmin, *The Uses of Argument; Cosmopolis*.
4. Habermas has treated this theme of human rights and the logic of justification. In the next chapter we shall take up the Kantian theme of rights. Jürgen Habermas, “Kant’s Idea of Perpetual Peace: At Two Hundred Years’ Historical Remove” and “Struggles for Recognition in the Democratic Constitutional State,” in *The Inclusion of the Other*. We shall discuss the theoretical model of justification in our conclusion. See also Habermas, *Truth and Justification and Justification and Application*. For the moment, our analysis starts out from the international conditions of justification and notes the difficulty of positing a priori a schema of justification in this field, if not, indeed, the impasse to which such an approach might lead.
5. The validity of Rawls’s arguments when applied in the international sphere is much debated. The elements of the theory of justice and also, to a large extent, of the Oxford Conference of 1993 on the law of nations are scarcely appropriate for analyzing international justification. The analogy between the individual and the state is one of the weaknesses of this approach. Rawls, *The Law of Peoples*.
6. Some legal scholars take the view that law should be confined within the borders of the nation state.
7. This is laid down in the law of war and peace. Grotius, Book 2, chapter IV, VII, 214–215, “On Doubtful Causes of War,” VII, 2. The case of the transatlantic slave trade deserves particular attention. The discrimination blacks have suffered in the nineteenth and twentieth centuries is directly linked to the history of slavery.
8. Contrary to what some of its critics imply, American unipolarity is a fact of international affairs; its validity and viability nonetheless deserve to be examined.
9. Particularly from a consequentialist point of view.
10. Platonic idealism, e.g., regarded these two ideas as identical.
11. Buchanan, “Reforming the International Law,” pp. 130–173.
12. In chapter XII of the *Theologico-Political Treatise*, Spinoza lays down the distinction between the morality “inscribed on hearts” and the religious law written in scripture. Spinoza, *Theologico-Political Treatise*, p. 165. Kant also makes the distinction between the tribunal of consciences and the criminal court.
13. This law dates from 1789 (28 US Code, chapter 85, para. 1350) and was first applied in 1980 in an action against a Paraguayan soldier (*Filartiga v. Pena-Irala*, 630 F.2d 876 [1980]). Filipinos have also brought actions against Marcos thanks to the ATCA. It was complemented by the Foreign Sovereign Immunities Act of 1976, which allows Americans to take legal action against foreign states in the case of injury or death resulting from the activity of a foreign state on American soil. The Torture Victim Protection Act of 1991 gives non-Americans and Americans the possibility of suing other non-Americans (in cases of torture perpetrated in the name of a state ideology). Since 1996, American citizens can

also sue states accused of supporting terrorism (when these state entities are assigned to this category).

14. The full American term is “class action lawsuit.”
15. The sum involved in the first judgment was 745 million dollars.
16. Yale academics worked on the class action against Karadzic. The law department of that university is particularly recognized for its work on international law.
17. They are to be found on both sides of the Atlantic.
18. Admittedly, the International Criminal Court has many partisans in Europe and the activities of the European Court of Human Rights are making distinct progress. Nevertheless, the low participation of continental lawyers (particularly barristers) at the Hague Tribunal on former Yugoslavia attests to the challenge posed to a number of European countries, particularly France. For reasons relating to the power of that little country and its lack of universality, the Belgian draft universal jurisdiction law has had to be abandoned. As a result, the American courts have a monopoly on a universal jurisdiction of this kind.
19. The conditions for lifting immunity are, however, highly restrictive. The law that allows this is the Federal Tort Claims Act, introduced in 1946.
20. Nietzsche, *Beyond Good and Evil*, pp. 135–138.
21. Is the political initially anything other than the gathering around a collective need?
22. Andrew, *Shylock's Rights*.
23. “*Popular enlightenment* is the public instruction of the people upon their duties and rights towards the state to which they belong. Since this concerns only natural rights and rights which can be derived from ordinary common sense, their obvious exponents and interpreters among the people will not be officials appointed by the state, but **free teachers of right**, i.e. the philosophers. The latter, on account of the very freedom which they allow themselves, are a stumbling-block to the state, whose only wish is to rule; they are accordingly given the appellation of ‘**enlighteners**,’ and decried as a menace to the state. And yet they do not address themselves **in familiar tones** to the *people* (who themselves take little or no notice of them and their writings), but **in respectful tones to the state, which is thereby implored** to take the **rightful needs** of the people to heart. And if a whole people wishes to present its grievance (*gravamen*), the only way in which this can be done is by publicity.” Kant, “The Contest of Faculties,” p. 186 [Section 8: “The Difficulty of Maxims Directed toward the World’s Progressive Improvement as Regards their Publicity”]. Italic in text, bold added by the author.
24. The expression is attributed to Saint John Chrysostom (trans.).
25. This is what deterrence is about.
26. Among the works in this field, see French, “Morally Blaming Whole Populations,” pp. 266–285; Barry, “Do Countries Have Moral Obligations?” [www.tannerlectures.utah.edu/abcd.html](http://www.tannerlectures.utah.edu/abcd.html).
27. Both on the part of a state and of a political and economic group associated with it.
28. For some very illuminating thinking on these two notions in the contemporary international context, see Fletcher, *Romantics at War*. See chapter four: “The Guilt of Nations,” pp. 71–91 and chapter ten: “Living with Guilt,” 196 et seq.
29. Wasserstrom, “The Responsibility of the Individual for War Crimes,” pp. 47–70.
30. The question of terrorism and weapons of mass destruction would have had to have been dropped without, for all that, choosing to overlook the security dimension of the conflict.
31. Thomas Aquinas examines the validity of an act that leads to the death of innocents. See *Summa Theologica*, Part II, II, Question 64, Article 6.
32. It has been debated many times and very widely criticized. Among the most recent publications, see Kamm, “Failures of Just War Theory,” pp. 650–692.
33. This intention is collective. John Searle speaks of a “we-intention.” Searle, *The Construction of Social Reality*, p. 24. In the present case, this collective intention is not necessarily good or bad; it is plural.

34. Robert Jervis (1970).
35. See chapter four.
36. This analysis is inspired by a meeting organized by British Petroleum in New York in November 2001 in which we participated. The aim of this session with NGOs, lawyers, and academics was to debate the societal responsibility of this multinational with regard to its future investments, particularly in Indonesia.
37. The legal and moral debates in the United States on the responsibilities of the airlines with respect to the terrorist acts of 9/11 are also very instructive.
38. If it is a criminal act that the managers of the power station could have done nothing about, they are exonerated of all responsibility.
39. Scheffler, *Problems of Justice*, pp. 34–38 (chapter two: “Responsibility in a Global Age”).
40. Some relatives of the victims of 9/11 sued the insurance companies and the City of New York after the Twin Towers collapsed.
41. Obviously, “offshoring” has to be profitable. Why move plant abroad if the costs are identical?
42. In the Swiss case, critics point out that, from mid-1943 onward, Germany was no longer a danger to Switzerland. The Swiss leaders were aware of this.
43. As we have mentioned before, the opposite question arises in the case of Auschwitz. Does one have the right not to bomb concentration camps?
44. Our analysis favors consequentialism and utilitarianism.
45. Let us again take the case of the bombing of Auschwitz: the intention there to harm the prisoners would have been nonexistent. If the Allies had bombed the railway lines leading to the camp and if the transporting of prisoners had been interrupted, that act would have been justified.
46. This is the case with economic sanctions against Iraq by virtue of their taking Iraqi civilians hostage and the humanitarian disaster linked to the maintenance of this embargo.
47. In the case of the war against Afghanistan, the chief military objective of the Americans was the Al-Qaeda network. Destroying the power of the Taliban was a consequence of this choice. The United States cannot be regarded as having a responsibility toward Afghanistan, despite the intention of the American army to destroy certain towns. The fact remains, however, that this act is the resultant of a geopolitical calculation, which is an act of vengeance, its aim being to deter the future enemies of America.
48. The consequences of this act have to be identified at three levels: the local, the national, and the global, account being taken of the extent of each.
49. Substantial efforts bear witness to the pursuit of new criteria for military intervention. These concerns find expression in unprecedented investment on the part of state or managerial institutions in the United States, Britain, and France, in workshops, seminars, and research on morality. In continental Europe, particularly France, this theme was regarded only a few years ago as a matter for amusement.
50. The thinking of G. E. Moore is illuminating here. He takes the view that an action is just if the agent could have done nothing else that would have produced better consequences. Moore, “Free Will,” p. 311.
51. See part two.
52. Karl Marx, *Capital*, Vol. 1 (1976): 229. Cited in Hénaff, *Le Prix de la vérité*.
53. A “speech act” for Austin is a statement that constitutes an act, such as, e.g., “I apologize.” See Austin, *How to Do Things with Words*. [The term “act speeches” is in English in the original (trans).]
54. This point has been much debated by historians and economists. Did the slave trade itself make the economic and political development of Africa more difficult? Durban had the effect of reviving this polemic involving both experts and ordinary citizens.
55. The expression “I apologize” clearly differs here from the injunction “forgive me.” Forgiveness has, in this case, a religious connotation, which African Americans requesting

- an apology wished to avoid. This moral demand has a religious foundation and is subsequently extended into a secular form. Apologies do not involve forgiveness, which cannot be demanded for acts such as slavery or genocide.
56. See Hénaff, Hénaff, *Le Prix de la vérité*.
  57. Every minority or victim is subject to discrimination. By displaying their stigmata, these persons are equipping themselves to overcome that discrimination. They prove its subjective nature by refusing to internalize it. This psychologism is very often accompanied by certain practices inspired by multiculturalism.
  58. Simmel, *The Philosophy of Money*, pp. 355–394 (chapter five: “The Money Equivalent of Personal Values”).
  59. As has been shown, unfortunately, by some high-profile lawsuits in the United States, recourse to prestigious and expensive lawyers affords rich people the possibility of escaping criminal proceedings. Acquittal of this kind is not incompatible with the obligation to pay compensation as part of civil actions.
  60. By contrast, when the victim is afraid to ask for reparation, the representatives of the institution potentially responsible for the damage have few reasons to feel shame.
  61. Though they escape the obligation to make payment, some companies sometimes undertake other, more symbolic compensation measures, such as historical research into their past or memorials to victims. Ford was suspected of having used forced labor during World War II, but was subsequently acquitted of those charges. It did, however, fund a very substantial program of historical investigation carried out by Simon Reich, professor of economics at the University of Pittsburgh. A grant of 1.5 million dollars was later made to that university to carry out research in the human rights field.
  62. Holsti, *Peace and War*.
  63. Niebuhr, *Moral Man and Immoral Society*.
  64. For an illustration of this concordance of histories with regard to the child Elian fleeing Cuba, then returning to the island after his boat capsized, see Colonomos (2000): pp. 23–27
  65. Rosenau, *Distant Proximities*.
  66. Freud, “Notes upon a Case of Obsessional Neurosis,” p. 276.
  67. This principle and approach characterize the philosophy of Eliane Amado Lévy-Valensi.

## Eight Does Cosmopolitanism Have a Future?

1. Kant, “The Contest of Faculties,” pp. 177–190; *Critique of Pure Reason*, pp. 30–31.
2. Archibugi and Held, *Cosmopolitan Democracy*.
3. Harris, “The Greek Origin of the Idea of Cosmopolitanism,” pp. 1–10.
4. Berger and Luckmann, *The Social Construction of Reality*.
5. Hacking, *The Social Construction of What?*
6. For an example of the use of this metaphor, see [www.ksg.harvard.edu/news/opeds/2002/nye\\_Uspower\\_economist032302.htm](http://www.ksg.harvard.edu/news/opeds/2002/nye_Uspower_economist032302.htm). Op ed Harvard, “The New Rome Meets the New Barbarians: How America Should Wield its Power” by Joseph Nye (by invitation), March 23, 2002. Reprinted from *The Economist*.
7. Doyle, “Kant, Liberal Legacies and Foreign Affairs,” pp. 205–235; and “Kant, Liberal Legacies and Foreign Affairs, part II,” pp. 325–353.
8. Doyle, *Ways of War and Peace*.
9. Liberals and Marxists are for once in agreement: Joseph Nye (1990b); Strange, *States and Markets*.
10. Hume, “Balance of Power.”
11. Kant. “The Metaphysics of Morals.” The Theory of Right, Part II: Public Right, Section III: Cosmopolitan Right. § 62. *Political Writings*: 172–3.



12. Kant, "Perpetual Peace. A Philosophical Sketch," pp. 94–95.
13. Kant, "First Supplement: On the Guarantee of a Perpetual Peace," p. 114.
14. "I do not blame anyone if political evils make him begin to despair of the welfare and progress of mankind. But I have confidence in the heroic medicine to which Hume refers, for it ought to produce a speedy cure." "When I now see the nations engaged in war," he says, "it is as if I witnessed two drunken wretches bludgeoning each other in a china-shop. For it is not just that the injuries they inflict on each other will be long in healing; they will also have to pay for all the damage they have caused. *Sero sapiunt Phryges.*" See "The Contest of Faculties," p. 189.
15. Popper, *The Open Society and its Enemies*.
16. One finds these considerations in Strauss's commentaries on Platonic philosophy. See Strauss, *The City and Man*, pp. 56–137.
17. Athens may also succumb to an immoderate desire for conquest and such errors are fraught with consequences. Ibid., chapter III: "On Thucydides's War of the Peloponnesians and the Athenians," pp. 139–241.
18. Several Washington hawks (modestly) opted for this new appellation.
19. See chapter two.
20. Buchanan and Keohane, "The Preventive Use of Force," pp. 1–22.
21. Teitel, "For Humanity," pp. 225–238.
22. Special issue on "world civility." *Journal of Human Rights*. 2004. 3(2).
23. Renan, *Qu'est-ce qu'une nation?* P. 42.
24. [www.fas.harvard.edu/~asiactr/sino-japanese/minutes\\_2002.htm](http://www.fas.harvard.edu/~asiactr/sino-japanese/minutes_2002.htm).
25. Noiriel, *Sur la crise de l'histoire*.
26. Its vice-chair was Dr. Sybil Milton (United States), its members Professor Voyame (a Swiss lawyer), Professor Wladyslaw Bartoszewski (Poland), Professor Saul Friedländer (Israel), Professor Harold James (United States), Professor Georg Kreis (Switzerland), Dr Jacques Picard (Switzerland), and Professor Jakob Tanner (Switzerland).
27. Saïd, *Orientalism*.
28. Lewis, *What Went Wrong?*
29. Saïd is one of the ten great scholars who have made "outstanding contributions" to the development of the discipline of Arab and Muslim studies, according to the Middle Eastern Studies Association (MESA). Lewis's name does not figure in this list.
30. Alexander, "Professor of Terror," pp. 49–50.
31. Saïd, *Out of Place*.
32. "We are the Jews of the Arab world," Rushdie, *Imaginary Homelands*, p. 182.
33. Silberstein, *Post-Zionist Debates*.
34. Her profile is staunchly cosmopolitan (Israel, America, Iraq). <http://members.aol.com/ehshohat/home/index.html>.
35. "The *Hoffjuden*, like all still unspoiled upstarts, showed themselves, in their relations with the princes, to be proud of their dark background of misery, misfortune and pariah-existence. Against that background their glory as exceptions shone more brilliantly." Arendt, "Privileged Jews." p. 9.
36. Surprenant, *Freud's Mass Psychology*.
37. Ariès, *L'homme devant la mort*, p. 285 and following.
38. These kinds of enterprises, to which lawyers and complainants sometimes resort, are staffed by people with history degrees. [www.historyassociates.com/](http://www.historyassociates.com/).
39. Their work consists mainly in studying the bones they recover from these mass graves. Clea Koff is one of the pioneering anthropologists in this field. She worked for the United Nations in various conflict zones—Rwanda, Bosnia, and Croatia—between 1996 and 2000. She has published a book on her experience in Rwanda: Koff, *The Bone Woman*. [www.thebonewoman.com/](http://www.thebonewoman.com/).

## **Conclusion: Pragmatic Revolutionism**

1. Rorty, "Human Rights, Rationality and Sentimentality," p. 119.
2. Wight, *International Theory*, 47 et seq.
3. The applied dimension of this philosophy has prompted thinking in international relations that introduces pragmatism to it, particularly Dewey, by drawing on his approach and thus combining scholarly analysis with participation by scholars in the democratic game. Cochran, "Deweyan Pragmatism and Post-positivist Social Science in IR," pp. 525–548.
4. Hawthorne, *Plausible Worlds*, p. 157.
5. Haas, "Introduction: Epistemic Communities and International Policy Coordination," pp. 1–36.
6. *The 9/11 Commission Report. Final Report of the National Commission on Terrorist Attacks Upon the United States*. New York: W. W. Norton and Company, 2004. See, especially, chapter eleven, "Foresight—and Hindsight," pp. 339–360.
7. Many voices have been raised against the ironic philosophy of Richard Rorty. For one of the most interesting, see Williams, *Truth and Truthfulness*, p. 4.
8. Rorty (1999a), and (1999b), p. 82. A distinction has to be made between justification and truth. Rorty (1999a), p. 32.

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