

## Realism, Morality, and War

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DAVID MAPEL HAS nicely distinguished the dominant strands of realist thinking on a variety of issues pertaining to the ethics of war.<sup>1</sup> I propose to carry his analysis further, drawing finer distinctions among several possible versions of political realism and indicating how certain common arguments apply to these different versions. This analysis will occupy the first part of the chapter. In the second part, I will examine more closely the idea, common to almost all traditional versions of realism, that there are circumstances in which states cannot be guided by the dictates of morality. I will argue that much of what realists have wanted to claim can be accommodated within a precisely characterized conception of commonsense morality.

My aim, then, is reconciliationist. In comparing different views of the ethics of war, it is important to discover what they have in common as well how they diverge. I will not, of course, try to show what realism has in common with all the viewpoints represented in this volume. I will be seeking a more limited reconciliation between certain strands of realist thought and a conception of morality that is dominant in contemporary Western societies. This conception derives from Jewish and Christian ethics, among other sources, and is neither systematic nor static. As applied to war, it is profoundly influenced by traditional theories of just war developed by Christian moralists and, in particular, by Catholic theorists of natural law. And, at least as applied to war, it is becoming increasingly influential across a wide variety of cultures. During the Gulf War, for example, George Bush and Saddam Hussein appealed to similar moral principles (like the impermissibility of attacking civilians) in criticizing each other's actions and attempting to justify their own. It does not seem overly optimistic to expect that as nations continue to debate the ethics of war, often in order to refine the international law of war, there will be an increasing convergence among the perspectives considered in this book.

### VARIETIES OF REALISM

Some of the versions of realism I will distinguish may not appear in a pure form in the writings of those usually labeled "realists." They have a certain theoretical tidiness that is often absent in the work of the realists themselves. That should not disqualify them as genuine and interesting versions



of realism. For historically, and especially during the twentieth century, what has unified realist writings is not a well-defined theory about the relation between morality and statecraft but a shared set of substantive views about what states are permitted or required to do. The views I will distinguish do, I think, capture this range of substantive views, so that distinguishing among them helps to illuminate the connections between the realists' substantive views and various conceptions of the relation of statecraft to morality.

Two further preliminary points should be made. First, realism is typically formulated as a view of how morality applies to the conduct of states. But nations, whose membership may not coincide with the citizenry of any one state, are also important agents in international affairs. And many nationalists have views about the application of morality to their nations that parallel realist views about morality and the state. Thus, though I shall continue to focus on the state, it is important to note that the versions of realism that I shall distinguish could be recast to take the nation rather than the state as the relevant unit.

Second, realists normally define their position in opposition to morality as they conceive it. Thus each of the views I will distinguish may be interpreted as an account of the conditions under which moral requirements may be disregarded. Yet some realists write not as if they are challenging the authority of morality, but as if they are advancing an unusually permissive conception of morality itself. And indeed, each substantive view I shall distinguish can also be interpreted as a theory of what states are morally permitted to do. I shall refer to these alternative interpretations as the nonmoral and moral interpretations of each view, respectively.

I refer to the most extreme, though by no means uncommon, version of realism as "Strong Realism." Interpreted nonmorally, Strong Realism holds that morality does not apply at all to the conduct of states in their relations with other states (though it may apply internally, to the relations between a state and its citizens). This version of the theory is sometimes supported by arguing that, because morality arises only from relations within a community, and because states inhabit a state of nature in which there is no community, relations among states cannot be governed by morality. Alternatively, some have claimed that the state is an altogether higher and more exalted entity than the individual and hence cannot be bound by the constraints that govern the conduct of individuals.

Interpreted as a moral view, Strong Realism holds that states *ought* to be guided solely by a concern for the national interest in their relations with other states. Various realist arguments might be invoked to support this view—for example, the argument that representatives of the state are morally obliged to do whatever is necessary to advance the interests of the state because they serve as agents who are required to act in behalf of their principals (namely, the citizens of the state).<sup>2</sup> Or it might be argued that the



flourishing of the state is the supreme moral value, overriding all others. To support Strong Realism, however, this latter claim must take an agent-relative form. For no version of realism accepts the impartial view that one must do whatever promotes the flourishing of any state or all states. Rather, realism is normally universal in scope, though agent-relative in character: it holds that, for each person, it is only the flourishing of that person's own state that matters. According to some extreme versions of this view, the claim that the flourishing of one's own state is the supreme moral value implies that an individual's moral concern should extend only to the other citizens of his or her own state.<sup>3</sup>

The nonmoral version of Strong Realism has an analogue at the level of individual action—namely, moral skepticism, the view that individuals are not bound by the alleged demands of morality. Even Strong Realists tend to reject this view. More commonly, they claim that if individuals inhabited a state of nature analogous to that which characterizes relations among states, they too would be exempt from the demands of morality. But, since individuals in fact live in civil society, they are subject to the requirements of morality. (It is unclear, however, whether and how this view can accommodate the widely accepted judgment that relations between private citizens of different states are governed by morality.)

Proponents of the nonmoral interpretation of Strong Realism face a formidable task in defending this radical separation of the individual and the state.<sup>4</sup> Suppose that a father must, for whatever reason, intentionally kill an innocent stranger as a means of saving the lives of his wife and children. Can the Strong Realist plausibly claim that, though the state may intentionally kill innocent citizens in other states in order to promote even relatively trivial national interests, the father must obey the moral constraint that forbids the intentional killing of the innocent? It seems that, if the demands of loyalty and partiality are capable of suspending the constraints of morality in the case of the state, then they should also permit or even require the father to save his family, even if this necessitates intentionally killing the innocent. It is unconvincing to claim, as many realists do, that, whereas the state is exempt from the demands of morality, the father is bound by them by virtue of his membership in civil society. If anything, the demands of loyalty and partiality would seem to be *stronger* in the case of personal relations than for the largely impersonal relations among citizens of the same state.

The moral interpretation of Strong Realism also has an analogue at the level of individual action—namely, universalist egoism, the view that each individual ought to do what best promotes his or her own interests. Again, very few Strong Realists accept this view. But, rather than hold that there is a radical difference between states and individuals, the Strong Realist might accept an account of ethics that is compatible with both Strong Re-



alism and the rejection of egoism. According to this view, what morality principally requires is keeping faith with those to whom one is committed by virtue of certain special relationships. Hence the father in the case just cited must save his family even if this requires intentionally killing the innocent. Common membership in a state is also a special relation; hence those who determine how the state shall act must never be led by other considerations, such as impartial concern for human welfare, to sacrifice the interests of the citizens of the state. In both cases, the partiality required by morality may dictate the intentional sacrifice of the innocent.

This conception of morality is, however, quite implausible. Although some special relationships do require loyalty and do legitimize a certain degree of partiality, the degrees of loyalty and partiality that are permitted vary with the character of the relationships—for example, one is permitted a greater degree of partiality toward one's child than toward a casual acquaintance, other things being equal. And even in the case of paradigmatically legitimate special relationships, partiality is constrained in various ways. Thus even if the father in the previous example is permitted to kill an innocent stranger to save his family, there is clearly a limit to the number of innocent strangers he may kill for this reason.<sup>5</sup> It seems wise, therefore, to retreat to a weaker version of realism that recognizes some constraints on the pursuit of the national interest.

At the level of individual action, commonsense morality holds that there are various factors, independent of considerations of consequences, that may contribute to determining the morality of action. Certain of these factors have been thought sufficiently significant to ground strong constraints on action. In particular, it is often held that there is a constraint against doing harm that does not apply to allowing harm to occur, as well as a constraint against intentionally doing harm (or allowing harm to occur) that does not apply to foreseeably but unintentionally doing harm (or allowing harm to occur).<sup>6</sup> As Mapel points out, realists tend to reject the moral significance of the distinctions between doing and allowing and between intending and merely foreseeing, at least in their application to the conduct of states. They are reluctant to recognize constraints based on considerations of agency (often called "deontological constraints") as opposed to consequences.

It is possible, however, to distinguish four positions on the issue of constraints that might be grouped together under the heading "Moderate Realism." (These are not the only possibilities. I am ignoring various less plausible positions.) First, there is the nonmoral view that, though there may be constraints that apply to individuals, states are not subject to these constraints (at least in their relations with one another) because states are relevantly different from individuals. To be distinguishable from Strong Realism, however, this view cannot hold that there are no restrictions



whatsoever on the state's pursuit of the national interest. But instead of incorporating constraints based on either the distinction between doing and allowing or that between intending and foreseeing, this view acknowledges a restriction on the degree to which states are permitted to give priority to their own interests over the interests of other states. It holds that the priority of the national interest is not absolute; thus a state may not pursue a course of action if the extent to which it would be worse for other states exceeds by some fixed proportion the extent to which it would be better for the state itself. In short, this view endorses only limited national partiality and thus imposes a proportionality restriction on the amount of harm that a state is permitted to cause in pursuing the national interest.

Second, there is the view that morality itself, properly understood, does not recognize deontological constraints, either in the case of individuals or in the case of states. But morality does depart from consequentialism in allowing agents—individuals and states—to act on the basis of personal or national partiality. Again, however, the degree of permissible partiality is limited.<sup>7</sup>

A third variant of Moderate Realism holds that although moral constraints apply to the conduct of states, these constraints must sometimes yield to the imperatives of the national interest, not only in conditions of extremity or national emergency but whenever the interests of the state are seriously threatened. This third variant is sometimes defended by appealing to a conventionalist conception of morality, according to which it is in the interest of states to agree on and generally to adhere to certain rules or conventions. Since general conformity with the rules facilitates cooperation among states and reduces both the occasions for and the costs of war, each state ought generally to obey the rules in order to encourage reciprocal conformity. Nevertheless, because it is ultimately for reasons of national self-interest that the state gives its allegiance to the rules, it may default when the cost of compliance would be excessive.

A fourth variant holds that, although there are constraints that apply to the conduct of states, morality itself acknowledges that they are not absolute and thus may sometimes be overridden or suspended. Such a view might, for example, recognize the moral importance of loyalty and partiality within the state, allowing such considerations to override certain constraints in cases of conflict. Alternatively, a Moderate Realist who believes that moral constraints are mere conventions might argue that a state is released from its obligations vis-à-vis another state whenever that other state itself fails to comply with the constraint.

Realists often cite examples in which a state's survival would be imperiled if it were to do what morality seems to require. If there really are such cases, they provide the most compelling argument for the view that moral-



ity is excessively demanding. Though realists rely on these examples, most also hold that the situations in which a state is exempt from the demands of morality are more common than those in which the state's survival is threatened. Some theorists, however, believe that the requirements of statecraft diverge from those of morality only in conditions of extremity or national emergency, when what morality requires would imperil the continued existence of the state. I will refer to their view as the nonmoral interpretation of "Weak Realism."

There is also a moral version of Weak Realism according to which the constraints of ordinary morality are overridden by the state's duty of loyalty to its own citizens in conditions in which the survival of the state is threatened. Some realists recognize an analogous dispensation that permits individuals to violate constraints when this is necessary for self-preservation or for the preservation of those who are specially related to them (so that, for example, the father in our earlier example would be morally justified in killing the innocent to save his family).

In all these versions of political realism, the implications for what states may or must do with respect to war place realism at odds with morality as it is commonly understood. As Mapel points out, realists have claimed that there are occasions on which states either may or must resort to war in circumstances in which war is prohibited by the principles of *ius ad bellum*. And they have claimed that there are also occasions during war when states either may or must act in ways condemned by *ius in bello* constraints. The conflict between realism and morality, in other words, is between the realist's substantive intuitions and certain features that the realist attributes to morality. The realist view that a state is exempt from the demands of morality may therefore be challenged either by accepting that realist intuitions diverge from morality but arguing that these intuitions are wrong, or by arguing that there is in fact no divergence, since realist intuitions can be accommodated by morality. In the remainder of this chapter, I shall attempt to develop this second challenge. I shall argue that many of the substantive beliefs about war associated with realism are in fact compatible with ordinary morality. The intuitions of some realists diverge from morality only if morality is understood in an overly restrictive or rigid way.<sup>8</sup>

#### JUST CAUSE AND AGGRESSIVE WAR

The traditional doctrine of *ius ad bellum* encompasses six requirements: just cause, last resort, proportionality, reasonable hope of success, right intention, and competent authority.<sup>9</sup> In his discussion, Mapel focuses largely on the requirement of just cause, noting that realists reject the now common interpretation according to which only those wars fought in defense against aggression can be just. For realists hold that it can be justifi-



able to engage in a war of aggression—or at least that it can be justifiable to initiate the use of force—particularly when preemptive war, or perhaps even preventive war, is necessary to eliminate a serious threat to the security or survival of the state.

There is, certainly, a tendency among contemporary just war theorists to doubt the permissibility of all but self-defensive wars. But this tendency is more pronounced in the international law of war than it is in the views of moral theorists. Given the pervasiveness of wars of aggression throughout history, it is unsurprising that documents such as the UN Charter seek to achieve a dramatic change by announcing sweeping prohibitions of non-defensive war. Nevertheless, the principles that it is most useful to promulgate through international law do not necessarily coincide with the principles of morality. The latter may be too subtle, too complex, too difficult to enforce, or too likely to cause unnecessary conflict to serve the purposes of international law.<sup>10</sup>

Commonsense morality recognizes just causes for war other than self-defense against unjust aggression. There is, for example, a willingness to acknowledge the moral legitimacy of “humanitarian intervention”—that is, military intervention to stop a government from committing atrocities against its own population.<sup>11</sup> It might be said, of course, that this sort of nondefensive war is not the sort of war that the realist is interested in justifying, since the realist is distinguished by his concern for the national interest, not by his humanitarian concern for individuals in other states. But a war that has as its just cause the prevention of atrocities within another state need not be undertaken solely as an act of altruism. A war can be motivated primarily by a concern to advance the national interest and still be justified, in the same way that it can be justifiable to use force to stop a mugging, even though one may be motivated largely, or even exclusively, by the desire for a reward.

Commonsense morality also recognizes a right in some instances to go to war to redress past wrongs—in particular, to undo the effects of previous unjust aggression. Suppose, for example, that Iraq’s invasion of Kuwait had initially gone unopposed and that a protracted occupation had become (as Israel’s unjust occupation of the West Bank and Gaza has become) a settled feature of the international landscape. The passage of time and the eventual absence of resistance within Kuwait would have meant that a later war to reverse Iraq’s aggression would itself have counted as an instance of initiating a war—perhaps as an instance of aggressive war. But, provided that the desire for self-determination remained strong among the Kuwaitis, it is hard to believe that the passage of time alone could nullify the justice of the cause of upholding the political independence of Kuwait.

Ordinary morality also recognizes that preemptive war, and even preventive war (which differs from preemptive war in that the threat it seeks



to avert is temporally more remote), may sometimes be justified. Morality does, of course, assert a strong presumption against both types of war, for two reasons. One is that, just as we believe that a person must be guilty of some offense before it is justifiable to incarcerate him in order to prevent him from engaging in criminal activity in the future, so we believe that a state must normally be guilty of some actual offense before it is justifiable to go to war against it to prevent it from engaging in future aggression. Ordinarily, the offense that makes it permissible to disarm an adversary sufficiently to eliminate the threat of future aggression is actual, present aggression. That is, if a state engages in unjust aggression, it may be permissible to go to war against it, not only to stop the present aggression, but also to disarm it to prevent it from engaging in future aggression. But present aggression is not necessarily the only offense that can make it permissible to take belligerent action to eliminate a threat of future aggression. If, for example, a state is guilty of severe repression of its own citizenry, so that humanitarian intervention in behalf of the persecuted citizens is justified, then, if there is also strong evidence that the state poses a threat of aggression against other states, it may be permissible to continue belligerent action beyond that required to end the domestic repression in order to mitigate or eliminate the threat of future aggression.<sup>12</sup>

The second reason why there is a strong presumption against the permissibility of preemptive or preventive war is that a state's ability to understand the intentions and predict the future behavior of its adversaries is notoriously weak. If we were to permit a state to go to war against an adversary whenever it believed that the adversary would otherwise soon attack it, wars would be forever breaking out on the basis of unfounded fears and suspicions. Nevertheless, when the evidence that aggression will occur unless action is taken to prevent it is compelling and irrefutable, preemptive or even preventive war may be morally justifiable.

How can this conclusion be reconciled with the claim that, for war aimed at preventing future aggression to be justified, the target state must be guilty of some actual offense? There are two possibilities. One is to say that cases involving a near certainty of future aggression constitute exceptions to the claim that an offense is required in order for preemptive or preventive war to be justified. The other is to appeal to an analogy with domestic law. In Anglo-American law, some forms of evidence of future criminal behavior themselves constitute criminal offenses. Thus conspiracy in preparing to commit a certain type of crime is itself a crime. Similarly at the international level, preparations for war that constitute decisive evidence of an intention to engage in aggression may themselves constitute an offense that legitimizes the resort to war as a means of preventing future aggression. An *ex post* variant of this idea was in fact proposed at Nuremberg. It was argued there that the acts of Nazi officials prior to but in



preparation for Germany's use of force beyond its borders exposed them to prosecution for the international analogue of criminal conspiracy.<sup>13</sup>

What these observations show is that, though there may be a tendency in international law to prohibit all but purely defensive wars, common-sense morality is not so restrictive. Although it is insufficiently permissive to satisfy the Strong Realist, morality may permit a sufficient variety of nondefensive wars to satisfy the Moderate or Weak Realist.

#### PROPORTIONALITY AND LAST RESORT

As usually understood, the *ius ad bellum* requirement of proportionality holds that, to be morally permissible, a war must not cause expected harm that exceeds the expected good it brings about.<sup>14</sup> Realists typically reject such a requirement. Although they believe that, to be rational, war must satisfy a prudential proportionality constraint (the war must advance, or at least not set back, the national interest), they also believe that a state may be justified in initiating a war that promises more harm than good, impartially considered, provided that the larger proportion of harm is suffered by the adversary whereas the state itself enjoys the larger proportion of benefit.

I believe that morality also rejects this crude conception of proportionality. There are at least two ways in which benefits and harms either may or must be weighted in the proportionality calculation. First, in a choice involving a conflict of interest between those who are morally innocent relative to that choice and those who are morally noninnocent, the interests of the innocent have priority. Suppose, for example, that one state ("Aggressor") is guilty of unjust aggression against another ("Victim"). To the extent that the soldiers fighting in behalf of Aggressor may be considered morally noninnocent, their interests do not weigh against those of either the soldiers or the civilians of Victim in the normal way. If Aggressor's forces are significantly morally culpable for their action, and if killing them is necessary to prevent them from causing significant harm to the morally innocent citizens of Victim (whether civilians or soldiers), their deaths may not figure in the proportionality calculation at all. In these conditions, the interests of the innocent have absolute priority—as they do in certain cases of individual self-defense in which the innocent victim is permitted to kill as many culpable attackers as is necessary to prevent the success of their murderous attack.

This is not to say that harms caused to the noninnocent never count at all in the proportionality calculation. Sometimes they do and sometimes they do not. It depends, among other things, on the degree of their noninnocence, the magnitude of the harm they might suffer, and the magnitude of the harm to the innocent that might be averted by harming them.



The details need not detain us here. The relevant point is simply that harms caused to the noninnocent must often be morally discounted relative to benefits to the innocent; and this allows for the possibility that a war may cause an amount of harm that is greater, when unweighted for moral innocence and noninnocence, than the amount of good it produces (which of course includes the harm it prevents) and still be morally justified.

Harms and benefits may also be weighted for national partiality in determining whether a war would be proportionate. Just as at the level of individual action, there are circumstances in which we are allowed (and perhaps, in some contexts, required) to give greater weight to the interests of those to whom we are specially related and about whom we specially care than to the interests of strangers. States are therefore permitted, at least in some contexts, to assign some degree of priority to the interests of their own citizens over those of the citizens of other states.

The permissibility of weighting harms and benefits for national partiality may depend both on considerations of innocence and noninnocence and on considerations of intention. It is not permissible, for example, to assign priority to the interests of one's own forces if one's cause is unjust and one's forces therefore cannot be regarded as wholly morally innocent. It is also doubtful that considerations of national partiality can affect the morality of intentionally harming morally innocent civilians in another country. Yet it may be permissible, other things being equal, to cause a somewhat greater amount of *unintended* harm to innocent civilians in a country with which one is at war in order to prevent one's own innocent citizens, civilians or soldiers, from suffering a lesser harm.

When both the priority of the innocent and the fact that some degree of national partiality is permitted are taken into account, it becomes clear that the proportionality requirement is much less restrictive than realists have supposed. Morality need not condemn a war that causes more harm than good, provided that the war is fought for a just cause and most of harm caused is suffered by those who are morally responsible for the wrong that the war is fought to prevent or rectify. Again, of course, even this more permissive interpretation will be excessively restrictive for Strong Realists and for many Moderate Realists as well. But some may be surprised to find that, with the refinements I have suggested, the requirement does not in fact rule out certain types of war of which they approve but that they think it condemns.

It is worth pointing out that recognizing the permissibility of a limited degree of national partiality also has the effect of mitigating the severity of the traditional requirement of last resort. A plausible interpretation of this requirement is that war is permissible only if there is no alternative, non-violent means of pursuing the just cause that would have better expected consequences, considered impartially and taking into account the priority



of the innocent. Imagine, however, a case in which there is such an alternative; yet, though both war and the alternative would be costly to the state, the burdens of the alternative would be even greater than the burdens of war. Assuming that there is a just cause, and assuming that the consequences of war would not be too much worse, impartially considered, than those of the alternative, it may be permissible for the state to resort to war rather than to adopt the impartially better nonviolent alternative. For partiality may permit it to spread the costs of achieving the just cause among others rather than absorbing them all itself.

#### DISCRIMINATION

The *ius in bello* requirement of discrimination has been variously interpreted. Mapel interprets it so that it “forbids intentionally attacking the innocent” and claims that it derives from the more basic Pauline principle that “one may *never* do evil that good may come of it.”<sup>15</sup> This suggests that the principle is to be interpreted as an absolute prohibition—one that may never permissibly be violated, whatever the consequences. And indeed, the principle is often interpreted in this way.

At the formal level, the innocent are those who have done nothing to compromise or forfeit their moral immunity to attack. Different substantive conceptions of innocence correspond to different views about what makes a person morally vulnerable to attack or lowers moral barriers to attacking him. In both the just war tradition and international law, the innocent are sometimes said to be those who are not *nocentes*—that is, not engaged in causing harm. This conception of innocence is often referred to as “material innocence” to distinguish it from the more common notion of moral innocence. In the context of war, the materially innocent are usually identified with noncombatants, whereas only combatants are held to be materially noninnocent.<sup>16</sup>

If morality absolutely prohibits intentionally attacking the innocent, if noncombatants are relevantly innocent, and if civilians are noncombatants, then the requirement of discrimination rules out intentional attacks on civilians. Realists, however, typically claim that, in war, circumstances occasionally arise in which it is necessary intentionally to attack civilians. They therefore conclude that, on these occasions, morality must yield to the imperatives of prudence.

Again, however, it is a mistake to think that the realist’s substantive intuitions are necessarily incompatible with morality. I shall argue that there are circumstances in which morality permits intentionally attacking civilians. The realist has been led to think otherwise by the fact that the just war tradition diverges from commonsense morality in two respects.



First, commonsense morality is not absolutist. It does, of course, recognize constraints on action that are independent of considerations of consequences, but it allows for the possibility that these constraints may be overridden in conditions of extremity. Thus it can recognize the permissibility of intentionally attacking civilians if the considerations that favor doing so are sufficiently urgent and compelling to be overriding. Yet the presumption against intentionally attacking the innocent in war, though not absolute, is extremely strong. Recall that commonsense morality recognizes two principal constraints on action that affects the innocent: one against *doing* harm and another against *intentional* harming. Both coincide in opposing intentionally attacking the innocent, and the strength of their opposition increases with the magnitude of the harm inflicted, which in war tends to approach the maximum that people are capable of inflicting on one another. So conditions in which the constraint against intentionally attacking the innocent in war may be overridden will be quite rare.

There remains, however, the second respect in which ordinary morality diverges from the just war tradition. Although that tradition holds that it is material noninnocence that compromises a person's immunity to attack, morality recognizes that both moral and material noninnocence may do so—indeed, that the effect of moral noninnocence in lowering moral barriers to intentional attack is clearer and more decisive than that of material noninnocence.<sup>17</sup> Thus there are cases in which material noninnocence alone does nothing to weaken a person's immunity. For example, a murderer has no right of self-defense against a police officer who attacks him to prevent his committing a further murder. Yet, because his action poses a threat of harm, the officer is materially noninnocent vis-à-vis the murderer. By contrast, moral noninnocence—in the form of responsibility for an unjustified threat—seems always to compromise a person's immunity, even when the person is materially innocent. Suppose, for example, that Romulus has maliciously tampered with the brakes of Remus's car. As the brakes fail, Remus realizes what has happened; for, as his car is about to go off the Palatine cliff, he sees Romulus in front of him, jeering triumphantly. Romulus is, however, an extremely large person, and Remus realizes that he can at least slow the car enough to jump to safety by steering it into Romulus. If that is the only way he can save himself, it seems clear that Remus may kill Romulus by running the car into him. But note that, in the relevant sense, Romulus is materially innocent. Although the threat to Remus's life was created by Romulus's past action, Romulus himself is now no part of the threat; hence Remus's running the car into him does not count as an act of self-defense, but rather as an act of self-preservation. Nevertheless, Romulus's moral noninnocence renders him liable; he cannot claim immunity simply by virtue of his material innocence.



This conclusion can be extrapolated to the case of war. It is often true that certain civilians contribute importantly to the initiation of war. In this respect, their relation to the victims of their country's war is analogous to that of Romulus to Remus: they set a threatening sequence in train but are not themselves the agents of the threat. Thus their moral noninnocence may render them liable to attack despite their current material innocence. Suppose, for example, that it is necessary intentionally to attack a certain number of morally noninnocent noncombatants in order to prevent their country's action from killing an equal number of morally innocent people—soldiers fighting in a just war or civilians on the side with the just cause, for example. In these conditions, morality would, it seems, permit attacking the noncombatants.

The case in which it is most obviously permissible intentionally to attack or kill a morally noninnocent noncombatant in war is that in which the assassination of a political leader who bears moral responsibility for his country's unjust aggression would be sufficient to stop that aggression, thereby eliminating the need to kill a large number of that country's soldiers. It might be argued, however, that such a political leader is not in fact materially innocent. Because of his position in the chain of command, he is in fact engaged in causing harm. On this understanding of causing harm, the distinctions between material innocence and noninnocence on the one hand, and noncombatancy and combatancy on the other, do not coincide. The problem with this suggestion, however, is that to separate material noninnocence from combatancy is to clear the way for the classification of a great many civilians as materially noninnocent—for example, the newspaper columnist and orator who effectively propagandizes and raises funds for a campaign of unjust aggression, or perhaps even all the voters and taxpayers who support and pay for the aggression.

Either way, therefore, it turns out that it may be permissible in war intentionally to attack certain civilians. If, on the one hand, we equate material innocence with noncombatancy, then it seems that material innocence is not sufficient for immunity, since morality concedes that certain morally noninnocent noncombatants, like the political leader who initiates an unjust war, may be attacked. If, on the other hand, we accept a broader understanding of causing harm, so that certain noncombatants (politicians, journalists, lobbyists, etc.) may be materially noninnocent, then many civilians will have forfeited whatever immunity is supposed to be afforded by material innocence.

There are, of course, problems with the idea that certain civilians may permissibly be attacked in war. For the constraint against intentional harming is relaxed only with respect to those civilians who are either morally or materially noninnocent. But civilian populations tend to be mixed, containing people who are morally and materially innocent as well as those



who are either morally noninnocent, materially noninnocent, or both. And attacks on civilian populations in war normally cannot discriminate among these different groups.

I will not pursue this problem here, though I have done so elsewhere.<sup>18</sup> The important point is that commonsense morality does not, as realists have tended to believe, categorically prohibit all intentional attacks on civilians in war. Again, this will not satisfy the Strong Realist. Nor is it enough to satisfy those Moderate Realists who insist on a wider permission to attack civilians, the morally innocent as well as the morally noninnocent. But it may be enough for some.

#### CONCLUSION

If one accepts certain rigid or “moralistic” conceptions of morality—including that which underlies certain elements in the traditional theory of just war—then one may find that many versions of realism seem coherent and manage to avoid being intuitively repellent even though they claim that morality must occasionally be suspended or overridden. If, however, one explores the contours of ordinary morality more carefully, I believe that one will find that it contains subtleties and complexities that allow it to accommodate many of the substantive intuitions that lead some people to embrace realism. In particular, the substantive claims of Weak Realism and some variants of Moderate Realism seem to be compatible with commonsense morality, which is deontological but not absolutist in character. These versions of realism, therefore, may not really be distinctive doctrines at all; they may disappear as versions of realism, leaving only the more extreme versions that clearly diverge from morality. Of these latter, those that diverge from morality only slightly may not seem unreasonable, though they will diverge rather sharply from various rigid or oversimplified perceptions of morality (such as that which underlies the traditional theory of the just war). As the divergence from commonsense morality becomes more pronounced, however, the more extreme versions of realism become inescapably morally repellent, and it becomes more difficult to understand how people can defend them.<sup>19</sup>

#### NOTES

1. David Mapel, Chapter 3 above.

2. This argument is cogently criticized in Marshall Cohen, “Moral Skepticism and International Relations,” *Philosophy and Public Affairs* 13 (1984), 300.

3. For a view that verges on endorsing an extreme partiality of this sort, see Alasdair MacIntyre, “Is Patriotism a Virtue?” first published as The Lindley Lecture, University of Kansas, 1984; reprinted in Ronald Beiner, ed., *Theorizing Citizenship* (Albany: State University of New York, 1995).



4. In *Political Theory and International Relations* (Princeton: Princeton University Press, 1979), pt. 1, Charles Beitz argues that Strong Realism collapses into universal moral skepticism.

5. For further discussion, see McMahan, "The Limits of National Partiality," in Robert McKim and Jeff McMahan, eds., *The Ethics of Nationalism* (New York and Oxford: Oxford University Press, forthcoming).

6. I attempt to clarify the nature of the latter constraint in "Revising the Doctrine of Double Effect," *Journal of Applied Philosophy* 11 (1994).

7. See Samuel Scheffler, *The Rejection of Consequentialism* (Oxford: Clarendon Press, 1982). Scheffler is concerned entirely with individual morality, but the theory is easily extrapolated to the level of states.

8. Cf. Cohen, "Moral Skepticism and International Relations," 300 and passim.

9. These requirements and the relations among them are discussed by John Finnis in Chapter 1 above.

10. Compare my "Innocence, Self-Defense, and Killing in War," *Journal of Political Philosophy* 2 (Sept. 1994), sec. 4.1.2.

11. See, e.g., the otherwise strongly anti-interventionist theory developed in Michael Walzer, *Just and Unjust Wars*, 2d ed. (New York: Basic Books, 1992), pt. 2.

12. In "The Just War and the Gulf War," *Canadian Journal of Philosophy* 23 (Dec. 1993), sec. 2, Robert McKim and I argue that the aim of preventing future aggression can normally contribute to the justification for going to war only in the presence of another reason for going to war that by itself constitutes a just cause for war.

13. Telford Taylor, *The Anatomy of the Nuremberg Trials* (New York: Knopf, 1992), 36.

14. Although the restriction is seldom explicitly stated, the goods that weigh against the evils of war must be limited to those specified by the just cause; otherwise the achievement of certain goods would be allowed to count in favor of war when by hypothesis their realization is not part of the justification for going to war. See McMahan and McKim, "The Just War and the Gulf War," sec. 3.2.2.

15. Mapel, Chapter 3 above, emphasis added. Cf. Alan Donagan, *The Theory of Morality* (Chicago: University of Chicago Press, 1977), sec. 5.2.

16. John Finnis, who writes in Chapter 1 above that one "must not intend the death of innocents (noncombatants)," provides a representative discussion of the concept of innocence.

17. See my "Innocence, Self-Defense, and Killing in War," sec. 3; and also Jeff McMahan, "Self-Defense and the Problem of the Innocent Attacker," *Ethics* 104 (Jan. 1994), esp. secs. 2 and 6.

18. McMahan, "Innocence, Self-Defense, and Killing in War," sec. 4.2.3.

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