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What is the ‘Political’ in International Political Theory?

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Abstract

Middle-ground ethics has been defined as seeking a balance between individual morality and real-world politics. As usually formulated, middle-ground ethics is a ‘soft’ kind of political realism: a compromise between justice and interest or, to be mischievous, between justice and injustice. A better view is that international ethics should acknowledge the normative force of choices made according to morally legitimate procedures, the outcomes of which should be respected even when they are in tension with other moral considerations. Here, the middle ground is not a compromise between morality and power but a criterion for delimiting the sphere of morality, on the one hand, and the sphere of morally legitimate institutions, on the other. What is looked for, as the middle ground, is a morally acceptable reconciliation of the claims of morality and legality, where each is understood to be a system of justice making its own reasonable demands. The reconciliation sought is not between justice and injustice but between different kinds of justice. Middle-ground ethics accepts that political institutions have a claim to be considered authoritative and to constrain what can be done in the name of morality. Because political theory in its post-Rawlsian phase claims to have rediscovered politics as an alternative to the abstract moralism of liberal political thought, it is relevant to consider how political theorists today conceive politics and how their conceptions might illuminate the character and aims of international political theory.

1

The idea of ‘international society’ has a long history in European thought. The image of an association of rulers of different states analogous to an association of citizens within a state is a recurrent one in the efforts political and legal theorists to understand the European system. To eighteenth-century observers, that system appeared to operate on principles—a common law of nations and the balance of power as a deliberate policy of resisting hegemony—that were unknown elsewhere in the world. Some thought that what united the peoples of Europe

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and distinguished them from other peoples were the beliefs and customs they shared, such as the Christian faith and systems of public law based on a fusion of Latin and Germanic ideas (*ius gentium*). Others held that more important than any similarities was their adherence to a set of common rules: a distinct body of international law that governed their transactions with one another (*ius inter gentes*). Disagreement about the relative importance of common culture, interests, and rules in defining international society is no closer to resolution today than they were two hundred years ago. Such disagreement can be seen today in the writings of theorists in the English School of international relations. These theorists agree that the idea of international society is fundamental yet cannot agree on how it should be defined. The poles of the disagreement are in fact the same as those that structured eighteenth-century debates: some ('solidarists') identify international society with shared beliefs, values, and interests, others ('pluralists') with an authoritative body of common rules or laws.²

Still others, perhaps not fully grasping the contradiction, include both. According to Hedley Bull, a prominent member of the School, an international society exists when a number of states conceive themselves to have interests in common *and* obligations under common rules.³ There is an ambiguity in Bull's use of the word 'exists', which equivocates between definition and instantiation: one could say, for example, that the idea of international society is the idea of a community of states constituted by their recognition of common rules but that an actual international society comes into being or persists only if it enjoys a sufficient level of cultural unity or common interests. According to this view, common beliefs, values, and interests are contingent conditions for the existence of an international society defined by common rules. Those rules regulate as well as constitute the society. Because they provide a normative basis for international order among states without denying their differences, such rules are needed most where religious or material differences are deep. In a society of states, on this (pluralist) view, foreign policy choices that would in the absence of common rules be determined entirely by considerations of interest and power, and therefore only by a concern for what is expedient, must also respond to 'moral' considerations, such as those prescribed by international laws forbidding aggression, intervention, treaty violations, or violations of the rules of war. Considerations of this sort are not instrumental to realizing national goals;

² Terry Nardin, *Law, Morality, and the Relations of States* (Princeton: Princeton University Press, 1983).

³ Hedley Bull, *The Anarchical Society: A Study of Order in World Politics* (London: Macmillan, 1977), 13; Hedley Bull and Adam Watson, eds., *The Expansion of International Society* (Oxford: Clarendon Press, 1984), 1.

they are noninstrumental limits on what may be done to achieve such goals. States can pursue their purposes, individually and collectively, and they can rightly resist interference by other states provided they respect those limits. The principle that constitutes international society, and is the basis of international law, is a principle of coexistence: states must not interfere with one another's independence except to thwart unjustified interference.

The ethical doctrine corresponding to a world without common rules governing the conduct of states, or a world in which the rules are secondary and instrumental to national purpose, is often called 'political realism'. But where the authority and therefore obligatory character of common rules is acknowledged, this realism competes with an ethics based upon those rules. The result is a tension between interest and morality, between expediency and justice. Faced with an unhappy choice between behaving prudently, which means resolving the tension by subordinating rules to outcomes, and behaving justly, thereby resolving it by subjecting even vital interests to the jurisdiction of rules, it seems plausible to seek a middle ground between these extremes. But the middle is not always the right place to be.

If we ask why a state should have sovereign rights, the accepted answer is that they express the moral rights of the human beings who compose it. The responsibility of states to respect and protect these rights is also a constraint on its authority, but it is one that arises outside the framework of a state-centric international order. Moreover, because justice involves not only what states owe to one another but also what they owe to their subjects, the middle might be conceived as a point between three rather than two extremes, for political realism competes not only with international law (and the morality of states on which it is largely based) but also with the morality of human rights. It is this three-way tension that another prominent English School figure, Martin Wight, tried to capture by distinguishing three traditions of international theory: realist, internationalist, and cosmopolitan.⁴

2

To keep things simple, I will leave the distinction between international and cosmopolitan morality in the background and focus on the tension between morality (of either sort) and expediency. A satisfactory middle-ground ethics, as understood within the English School,

⁴ Martin Wight, *International Theory: The Three Traditions*, ed. Gabriele Wight and Brian Porter (New York: Holmes & Meier, 1992). These are my names for Wight's traditions, not his own.

would be the result of acknowledging what is reasonable in the claims of each. According to one interpretation of this position, normative deliberation should seek a balance between moral ideals and real-world politics, between moral limits on state conduct and the interests of states.⁵ The question is whether it can achieve this balance without collapsing into political realism. Although some realists are moral skeptics, most do not usually dismiss morality out of hand. Instead, recognizing its limits in the circumstances of ‘real life’, they offer guidance on what to do when the course prescribed by morality diverges too far from that prescribed by other important considerations, such as survival. But moral beliefs are themselves a part of reality, constitutive of and not merely external to interests and identity—a ‘constructivist’ point familiar to moralists since antiquity.⁶ English School thinking on the whole fails to escape this awkward dichotomy between ‘morality’ and ‘reality’, as if moral norms were not part of the world and interests never unrealistic. In the typical English School formulation, middle-ground ethics is a kind of watered-down political realism. It avoids moral skepticism but nevertheless assumes a familiar realist stance, which is that morality must give way to expediency when the stakes are high enough. The result is a compromise between morality and expediency or, to be mischievous, between justice and injustice. My point is not that such a compromise is morally questionable—that is obvious, given my definition of morality—but that in the absence of some systematic theory of political ethics it is incoherent.

Against that view, I want to sketch an alternative that avoids assimilating middle-ground ethics to political realism. It treats choices made according to morally acceptable procedures as legitimate, even when the actions or institutions that result from such choices are open to moral criticism. The ‘middle’, here, is not a compromise between morality and expediency but an effort to reconcile the claims of substantive and procedural morality. What is looked for, as the middle ground, is a morally acceptable reconciliation of the claims of morality, in general, and the specific prescriptions that arise within institutions, which are arrangements for making collective decisions in situations in which people are likely to disagree. An institution such as the family or civil society must be understood to be a system capable of making morally legitimate demands on its member, even if the demands it actually makes are

⁵ Molly Cochran, ‘Charting the Ethics of the English School: What ‘Good’ is There in a Middle-Ground Ethics?’, *International Studies Quarterly* 53 (2009), 203–225, at 204.

⁶ David Daube, *Collaboration with Tyranny in Rabbinic Law* (London: Oxford University Press, 1965); James Boyd White, *When Words Lose Their Meaning: Constitutions and Reconstitutions of Language, Character, and Community* (Chicago: University of Chicago Press, 1984).

often illegitimate. The reconciliation sought is not between rights and interests, or between right and wrong, but between substantive right and procedural right, between moral and legal right. Middle-ground ethics takes seriously the claims of law—and therefore of politics as deliberation that eventuates in laws. This does not mean that it cannot challenge laws or legal institutions, but neither can it reject them out of hand as morally objectionable or irrelevant. I think something about how to develop this middle-ground view can be learned from Kant's theory of public right. But even if one rejects that particular line of thought one is still left with a problem: how to be 'realistic' about the limits of moral conduct in the public realm without taking 'political realism' as an ethical stance.

The idea of politics is important on any view of middle-ground ethics, not just a realist view. Because political theory in its post-Rawlsian phase claims to have rediscovered politics as an alternative to the rationalism and moralism of liberal political thought but as nevertheless still relevant to theories of justice or right, I want to look at how theorists today conceive politics and at how their conceptions can illuminate the study of international politics in a way that transcends the usual dichotomy between idealism and realism. A literature has sprung up in defense of politics, usually an idealized 'democratic politics', against the justice-preoccupied theories of the 'high liberalism' of John Rawls, Ronald Dworkin, and other luminaries of late twentieth-century political theorizing.⁷ I cannot survey this literature but will look instead at a few efforts to give political theory a less 'idealistic' character than that represented by either the canonical theorists of liberal justice or their democratic critics. My aim is not to defend or refute these efforts but to define the requirements of a coherent middle-ground ethics in the context of international political theory.

When political theorists rebel against the moralizing of their peers, they position themselves in what they call 'reality'. The titles of some recent books by anti-moralist political theorists

⁷ See, for example, Bonnie Honig, *Political Theory and the Displacement of Politics* (Ithaca: Cornell University Press, 1993); Jeremy Waldron, *Law and Disagreement* (Oxford: Oxford University Press, 1999); Glen Newey, *After Politics: The Rejection of Politics in Contemporary Liberal Philosophy* (London: Palgrave Macmillan, 2001); John Tomasi, *Liberalism beyond Justice: Citizens, Society, and the Boundaries of Political Theory* (Princeton: Princeton University Press, 2001); and Thomas A. Spragens, Jr., *Getting the Left Right: The Transformation, Decline, and Reformation of American Liberalism* (Lawrence: University Press of Kansas, 2009). For surveys, see Marc Stears, 'Review Article: Liberalism and the Politics of Compulsion', *British Journal of Political Science* 37 (2007), 533–53, and William A. Galston, 'Realism and Moralism in Political Theory: The Legacies of John Rawls', in Shaun P. Young, ed., *Reflections on Rawls: An Assessment of his Legacy* (Farnham: Ashgate, 2009), 111–31.

illustrate my point. Raymond Geuss's effort to go 'outside ethics', in a collection of essays with that title, was preceded by a book on 'history and illusion in politics' (illusion being the negative of reality) and followed by another on 'philosophy and real politics'.⁸ The political essays of Bernard Williams have been posthumously assembled into a volume on 'realism and moralism in political argument'.⁹ One might add to this interest in politics as displacing ethics the rediscovery of a republican tradition focused on institutions like the separation of powers or, in international affairs, the balance of power, as an alternative to liberalism or moral idealism in European political thought, or the related criticism of legalism in the field of constitutional law and the advocacy of 'political constitutionalism'.¹⁰ Before giving my own view of the relationship between morality and politics, I want to take a closer look at what Williams and Geuss, who describe their own positions as realist, have to say about that relationship. Because their choice of 'realism' as the antidote to liberal moralizing is best understood in context, I will also say a few words about that context.

3

Post-Rawlsian political theory begins by criticizing Rawls. Much of this criticism, especially as it concerns international relations, has focused not on obstacles to applying the principles of justice that Rawls defends in *A Theory of Justice* to the 'real world' of politics but on the moral adequacy of those principles.¹¹ A few critics did challenge Rawls's idealism, however, arguing that in defining justice he ignores some important facts. One of these is that human beings are not the utility maximizers of economic theory, nor are they disembodied selves whose identity is independent of culture and circumstances. Another is that the goods that are distributed in any society are significantly social, not only material, and that social meanings differ from one society to another. In making simplifying assumptions to frame general principles, Rawls ignores the actual character of socially constructed agents and goods. By

⁸ Raymond Geuss, *Outside Ethics* (Princeton: Princeton University Press, 2005); *History and Illusion in Politics* (Cambridge: Cambridge University Press, 2001); and *Philosophy and Real Politics* (Princeton: Princeton University Press, 2008).

⁹ Bernard Williams, *In the Beginning Was the Deed: Realism and Moralism in Political Argument*, ed. Geoffrey Hawthorn (Princeton: Princeton University Press, 2005).

¹⁰ As examples of two vast literatures, one might mention Quentin Skinner, *Liberty before Liberalism* (Cambridge: Cambridge University Press, 1998), and Richard Bellamy, *Political Constitutionalism: A Republican Defence of the Constitutionality of Democracy* (Cambridge: Cambridge University Press, 2007).

¹¹ John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971).

substituting a thought experiment involving hypothetical choices for the actual experience of agreeing on principles of justice, he generates a political theory that is devoid of politics.

What one of these critics, Bonnie Honig, calls the ‘displacement of politics’ is characteristic not only of Rawls but of most ‘liberal’ political theory as well, in so far as it looks to law and, specifically, to constitutionalism for a solution to the problem of power, seeking to construct a principled legal order that escapes the contingency and contamination of actual politics.¹² This is not entirely fair to Rawls, who even in his early writings was concerned with what he called ‘nonideal’ theory and who, later on, accepts the legitimacy as well as the inevitability of moral disagreement and the importance of identifying principles for a ‘realistic utopia’. Kant, like Rawls a common target of such criticism, is even more ‘realistic’, distinguishing justice from virtue and conceiving the task of a theory of justice to find laws that could bring a just peace even to ‘a race of devils’.¹³

In 1985 Bernard Williams famously dismissed morality as a ‘peculiar institution’ that treats obligation as all there is to ethics and implies that without morality there can be nothing but inclination, force, and injustice.¹⁴ One can, however, regard morality as one ethical outlook or practice among others—in contrast to virtue, love (*agape*), prudence, or the rule of law—without committing oneself to the conclusion that without morality there is only violence and chaos. This is in fact exactly the way Williams views it, for in deconstructing morality he does not construct something else to take its place. All these ethical orientations have their boundaries and defects and yet retain a place in human experience, which is not a unity but inescapably plural, contingent, and changing. As he makes clear elsewhere, the problem lies with philosophers who apply abstract moral ideas to practical matters, not always with the ideas themselves. The chief defect of ‘applied ethics’ is that its practitioners substitute

¹² Bonnie Honig, *Political Theory and the Displacement of Politics* (Ithaca: Cornell University Press, 1993), 2. This is a theme of those from Carl Schmitt onwards who criticize what they call the ‘liberal’ view that political conflicts can be settled judicially on the basis of rules.

¹³ Recent scholarship is undermining our tendency to read Hobbes and Kant in terms of realism vs. idealism. See, for example, Richard Tuck, *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant* (Oxford: Oxford University Press, 1999), and Howard Williams, *Kant’s Critique of Hobbes* (Cardiff: University of Wales Press, 2003).

¹⁴ Bernard Williams, *Ethics and the Limits of Philosophy* (Cambridge: Harvard University Press, 1985), 174–96. Williams had previously written against utilitarianism from what could be interpreted as a moral point of view, but with time it became apparent that what he was rejecting was not this or that ethical system but the very idea of an ethical system. Seen in this light, Williams’s criticism of what he calls ‘the morality system’ is not so much anti-moral as anti-theoretical.

principles for judgment: ‘Some people have a bit of ready-made philosophical theory, and they whiz in, a bit like hospital auxiliary personnel who aren't actually doctors’.¹⁵ To talk sensibly about politics, or about any other aspect of life, you have to know what’s actually going on, and it is with this sense of the term ‘real’ that he defends political realism as the antidote to political moralism. In his political writings, Williams bases his criticism of morality not on the errors of moral philosophy but rather on an account of the conditions to which morality is a response. These conditions are essentially Hobbesian.

The ‘first question of politics’, Williams argues, is the question not of right but of order. That question is in plain view in situations of disorder, where force and violence prevail, but it is never entirely out of sight even in times of peace. An order must exist before one can argue about whether it is just or unjust. Because any order makes demands on people, they will want to know how these demands are justified. They will, in other words, make a demand of their own, which Williams calls the ‘basic legitimation demand’.¹⁶ Liberal political thought from Hobbes to Rawls holds that this demand can be answered in the same way for everyone, regardless of culture and circumstances. For Hobbes, legitimacy springs from prudential rationality—rational people will know that they are better off with laws than without them, except in situations in which a state provides not law but violence, and will acknowledge for that reason the authority of the laws they have. For Kant, the answer is moral, not prudential, because legitimacy depends on the formal properties of law as ordering a relationship among persons that recognizes and protects their independence. For Rawls, legitimacy rests on both prudence (economic rationality) and morality (equal liberty). For these and other figures in what Williams calls the liberal tradition, legal orders that are violent or oppressive cannot be legitimate. A legitimate state must meet the basic legitimation demand of its subjects. The demand is met if the constraints imposed by law can be shown to be beneficial or fair for all. It is not met if there are subjects who are without protection from violence or exploitation.

What’s wrong with these ‘liberal’ accounts of legitimacy? For Williams, they ignore other ways of responding to the basic legitimation demand—religious legitimations, for example.

¹⁵ Interview with Donald McDonald, ‘The Uses of Philosophy’, *The Center Magazine*, November-December 1983, 40–49 at 43. As he put it on another occasion, ‘someone may acquire an excellent Ph.D. in [moral philosophy] and yet be someone whose judgement you would not trust on anything’. Bernard Williams, *In the Beginning Was the Deed: Realism and Moralism in Political Argument* (Princeton: Princeton University Press, 2005), 46.

¹⁶ Williams, *In the Beginning was the Deed*, 4–9, 135–36.

They also reflect a moralistic view of politics. We need, he thinks, a broader view in which ‘all the considerations that bear on political action—both ideals and, for example, political survival—can come to one focus of decision’. The ethic that relates to this view, he suggests, is an approach to practical judgment like Max Weber’s ‘ethic of responsibility’.¹⁷ This does not mean that such considerations can be measured and combined to yield an unequivocal answer to a practical question. Quite the contrary: it is Weber’s, and presumably Williams’s, point that values are not only diverse but incommensurable, that accepting one may mean rejecting another, and that the best one can do is to own up to this indeterminacy and take responsibility for one’s decisions. And because politics involves coercion, it may require acts that violate moral or legal rules. Governing, in particular, means acting in situations that may require an official to dirty his hands for the public good. Morality is only one consideration among others, and the fallacy that Williams calls ‘political moralism’ is to think that it is always the overriding consideration. It is of course morally overriding, but in a pluralist world in which the moral is merely one outlook among others, it is not clear that moral considerations should override other considerations in all cases. The problem, of course, is how to avoid, if not the nihilism with which Leo Strauss charged Weber,¹⁸ at least the practical error of discarding morality for reasons that seem compelling at the moment of decision but are precisely the illusions against which realism warns. Unless this problem is solved—and Williams, consistent in his anti-theoretical stance, has little to say about solving it—it’s not clear on what grounds we are to opt for political realism over political moralism. Both require good character and good judgment, and even a rule utilitarian, never mind a Kantian, would argue that the realist might need it more.¹⁹

4

Geuss, like Williams, sets himself the project of finding a way of thinking about politics that can avoid the fallacy of applied ethics—the fallacy, as he puts it, of thinking that one can work out an ideal ethical system first and then use its principles to make political choices. In

¹⁷ Williams, *In the Beginning Was the Deed*, 12.

¹⁸ Leo Strauss, *Natural Right and History* (Chicago: University of Chicago Press, 1953), 47–49.

¹⁹ As Mark Jenkins notes, borrowing a point from Martha Nussbaum, Williams presupposes a world full of people like himself—skeptical, self-critical, fair-minded, and responsible. But that world only partly resembles the world we know, which is inhabited also by people who are credulous, uncritical, prejudiced, and irresponsible. In doing so, Williams fails to address the pessimism that underlies political realism. Mark P. Jenkins, *Bernard Williams* (Chesham: Acumen, 2006), 188–89.

contrast to this ‘ethics-first’ view, a realist theorizing starts with how people actually behave. Political theory, on this view, has no essential character: it is neither purely descriptive nor prescriptive, and the distinctions it makes are appropriate and useful, or not, depending on the context and on what the theorist is trying to find out.²⁰ Political theorizing should recognize that politics is primarily a matter of actions, not opinions, that political actions are those of people acting in particular roles or offices, and that actions and events can be described in different ways.²¹ Because politics involves acting, it requires prudence and judgment. It’s an art that requires the practical know-how one acquires through experience, not knowledge or rules that can be applied by those who lack experience. This understanding of politics has ethical implications. Both the politician and the political theorist must eschew a simplistic moralism that sees conflicts in terms of a clash between good and evil, confuses conflicts of interest with conflicts of principle, devalues understanding, tolerance, and compromise, and is unable to imagine new ways of living and new modes of political order in which seemingly intractable hostilities become irrelevant.²² The moralism of liberal thought is an obstacle to thinking about the challenges of political life in a realistic, pragmatic, and characteristically ‘political’ manner. Political theory is not only *about* politics but is itself an intervention *in* politics: it is political because it has implications for political action and especially for the use of power.

An important skill in politics, Geuss emphasizes, is knowing when to act. Those who make decisions must know not only what to do but when to do it. There is never a right thing to do in general, only what is right at a given moment.²³ Those who make decisions must grasp opportunities as they present themselves, which means that fortune can be as important as skill.²⁴ Here we have something that is a feature of political choice not because it is political but because it is *choice*. Knowing when the time to act is ripe is important in politics, but it is no less important in timing an investment decision or career change. Geuss’s view of politics

²⁰ Geuss, *Philosophy and Real Politics*, 6–17.

²¹ Geuss, ‘Political Judgment in Historical Context’, in *Politics and the Imagination* (Princeton: Princeton University Press, 2010), 4.

²² Geuss, ‘Moralism and Realpolitik,’ *Politics and the Imagination*, 33.

²³ Geuss, *Philosophy and Real Politics*, 25, 30, 31.

²⁴ A point made by Machiavelli in *The Prince*, chap. 25. It is not pejorative to characterize Geuss’s realism as Machiavellian, for both authors are concerned to distinguish the problem of order from the problem of justice, the former being the problem of founding and securing an order, the latter of ruling justly within it.

as the art of the possible suggests that his understanding of politics is essentially pragmatic. If the right thing to do depends on timing, ‘right’ means not only what is morally justifiable but also what is possible and desirable given certain ends. This equivocal use of the word ‘right’ obscures the distinction between principle-based considerations and those based on expected outcomes. Paying attention to particulars (the ‘real world’ of contingencies) does not commit one to consequentialist reasoning (which makes outcomes the basis of decisions). A middle-ground ethics can therefore be realist in the first sense without being realist in the second. Geuss distinguishes his view from what he calls ‘hard-edged’ realism, which holds that the vocabulary of morality is empty and that politics is always a struggle for dominance. What is wrong with this kind of realism, he argues, is that its core concepts—interest and power—are no more stable than the moral concepts it rejects.²⁵ But the soft-edged realism Geuss defends remains prudential because unlike political moralism, which prescribes moral constraints on pursuing political goals, it rejects this lexical ordering of considerations. One of the main points of realism is that politics generates non-moral reasons for action, which by definition are not a sub-set of moral reasons.

Nevertheless, realist political theory must consider how the use of power by governments is legitimized. What considerations warrant the choices a government makes and enforces? Starting not from ethics but from political experience, the theorist must understand how such choices are defended in particular societies. That defense is not always moral, for political decisions are also defended on economic, religious, aesthetic, or other grounds. This means that theorizing must be attentive not only to different legitimizing arguments but must reach beyond morality in evaluating or justifying actions, policies, or institutions. Political theory also provides intellectual frameworks for understanding political experience and, in doing so, contributes to the ideologies that in any society legitimize political power, though this does not prevent the theorist from criticizing such ideologies.

By stressing these points, Geuss aims to show the intellectual narrowness of liberal political theory, which in its concern with principles of justice offers no help in understanding other aspects of politics. Its defect is to claim that the question of justice exhausts political theory, as if theorizing had no other purpose than to moralize and to find a principled foundation for its judgments. For Geuss, such theorizing is dogmatic and unhistorical. It is ‘unrealistic’ in

²⁵ Geuss, ‘Moralism and Realpolitik’, 38–40.

being detached from a concern with what needs to be done to realize its principles. It is also, in its preoccupation with moral principles, unhelpfully narrow. Like the liberal ideologies on which it draws and to which it contributes, liberal political theory has no answers to problems of poverty, environmentalism, and the like. Similar complaints have been made about liberal internationalism on the (solidarist) ground that solving global problems requires identifying collective goals and create institutions to achieve them.²⁶ Geuss's charge against liberalism supports Williams's: that it captures only certain aspects of moral and political experience.

5

Williams and Geuss are refreshing voices in political theory because they step outside the theatre of liberal moralizing. They want to think about politics in a way that pays attention to the complexity of political experience and to alternative ways of thinking about it, of which the familiar 'normative' or 'prescriptive' approach of applied ethics is only one. Motivating these concerns is a skepticism toward inherited questions and categories that is essential to philosophy, which distinguishes itself from other kinds of thinking by questioning ideas, not just using them. It's an activity of making maps, not reading them. Because it takes the moral ideas to be applied as given, applied ethics is contrary to the spirit of philosophy Williams and Geuss invite misunderstanding, however, by calling their approach 'realist', because in many contexts the expression 'political realism' signals, if not complete rejection of morality in the political realm, at least the subordination of moral concerns to prudential ones. They also invite misunderstanding by joining Weber in rejecting a Kantian 'ethics of conviction', which stresses the importance of virtuous motives, and ignoring Kant's theory of right, which concerns duties properly enforced as law both within and between states. A different view of Kant's ethics emerges if we give attention to his ideas about justice, law, and government.²⁷ In developing a theory of political right, Kant starts from experience and from many of the same premises as Hobbes. For both, legal order provides the only way that a multitude of individuals, diverse in their beliefs, values, and interests, can live peacefully and justly with

²⁶ Andrew Hurrell, *On Global Order: Power, Values, and the Constitution of International Society* (Oxford: Oxford University Press, 2007), 298.

²⁷ Studies of Kant's theory of right include Jeffrie G. Murphy, *Kant: The Philosophy of Right* (London: Macmillan, 1970); Allen D. Rosen, *Kant's Theory of Justice* (Ithaca: Cornell University Press, 1993); Elisabeth Ellis, *Kant's Politics: Provisional Theory for an Uncertain World* (New Haven: Yale University Press, 2005); and Arthur Ripstein, *Force and Freedom: Kant's Legal and Political Philosophy* (Cambridge: Harvard University Press, 2009).

one another. By developing a republican theory of justice that is distinct from moral virtue, Kant illustrates how one strand of Western political thinking has sought to reconcile morality and practicality by making law the basis of civil association and justice the criterion of law. Justice, understood as a criterion for evaluating law, mediates between the ideal world of moral principle and the real world of human action by prescribing how people can coexist with one another on the basis of rules that represent and protect the independence of each by forbidding not only interference with liberty but relations of domination that are incompatible with this independence.²⁸

The ‘real’ ethics that properly adjusts ‘ideal’ morality to the demands of political life is not an ethics of political responsibility that rationalizes moral wrongs but an ethics of political right that sets limits to coercion, which includes coercion by the state in the form of legally enforceable obligations. A legal order must provide for enforcement because laws cannot be the basis for civil order if people do not comply with them, and coercion is sometimes needed to ensure compliance. But it is a mistake to think that coercion is the essence of law and the state, as Weber suggests. Compliance does not usually depend directly on coercion. Coercion is indirectly important because, properly used, it provides confidence that lawbreaking will be kept to tolerable proportions. Compliance with law requires that people believe that if they comply others will as well—they must have confidence that they will not be taken advantage of by free riders or become the unprotected victims of violence and fraud. But the question of justice cannot be ignored, for although enforcement can secure compliance it cannot secure justice, which demands not only that laws be enforced but also that they are proper to be enforced. Justice, like authority, precedes enforcement. Being able to secure a satisfactory degree of compliance is a condition for the existence of a particular legal order but it is not part of the *idea* of coexistence under law. It is contingently important, but precisely for that reason, incidental, not essential, to the rule of law.

Justice, then, concerns the obligations a state can properly prescribe as law. According to this theory of justice, the ultimate principle by which laws should be judged is that people must

²⁸ Rainer Forst argues, in a way consistent with the argument of this tradition, that justice is ultimately a matter of non-domination—the morally proper use of coercion—and therefore a political idea. ‘Two Pictures of Justice’ (unpublished draft dated February 2010). The idea of non-domination is important in the reconstructed tradition of ‘republicanism’ that has recently emerged—a reconstruction that, on the whole, denies Kant’s place in it. There is, for example, no mention of Kant in Philip Pettit’s *Republicanism: A Theory of Freedom and Government* (Oxford: Oxford University Press, 1997)

not coercively interfere with one another's choices except to resist unwarranted interference. The rationale of political association is that law is necessary to protect the independence of its members from interference, by one another and by foreigners. A state is necessary because such an association requires an acknowledged authority to recognize, interpret, and apply its laws as well as instruments of power to enforce and defend them. This argument is not only the Hobbesian one that people are better off with laws than without them but also the Kantian one that to live according to laws is morally necessary. Those laws are expected to be 'just'—that is, to protect each person from being used, against his or her will, for someone else's purposes. Just laws are laws that prevent anyone, including those acting in the name of the state, from committing that most basic moral offense.²⁹ Such reasoning lies at the root of arguments for sovereignty, which rules out relationships between peoples that are, like some forms of colonialism, essentially relationships of domination and exploitation akin to slavery in the individual realm.

Arguing about the justice of laws is itself an aspect of political deliberation, which involves making decisions as well as discussing them. The 'political moralism' criticized by Williams and Geuss tries to extract political conclusions from moral principles without taking account of the demands of law and of political deliberation. It naively assumes that what is morally right should be legally required, or that if a law is morally deficient there cannot be moral reasons for complying with it. Put this way, it is not clear that the criticism applies to Kant, who develops a theory of political right that is distinct from ethics or moral virtue. Like Hobbes, Kant thinks that legal authority is especially important when people differ about what is substantively desirable or morally right. Rules recognized as authoritative are needed if people who differ on what good or right (especially when the ideas are economically or religiously grounded) are to coexist with one another. If there is disagreement not only about the authority of law but also about how disagreement is to be resolved, law may cease to be regarded as authoritative and the disagreement may end, as Hobbes observes, in the collapse of the state.³⁰

²⁹ The principles of right identified by Kant are not rules but a set of criteria for judging laws. Kant's ethics, more generally, is an attempt to identify the presuppositions of morality, which as theorized by Kant is not accurately described as 'a closed, unchanging system of rules'. Geuss, 'On the Very Idea of a Metaphysics of Right', *Politics and the Imagination*, 45.

³⁰ Thomas Hobbes, *Leviathan*, chap. 24, 'Of Those Things that Weaken or Tend to the Dissolution of a Commonwealth'.

In the absence of substantial agreement about authority, there is little point in arguing about whether its laws are just. Political deliberation, in contrast to political speculation, focuses on the merits and demerits of actual laws. Such deliberation must attend, among other things, to what Rawls (following Hume and Smith) called ‘the circumstances of justice’ in a society. Politics is not only the art of the possible; it is also the art of the appropriate. Circumstances may rule out policies that could not be implemented without incurring unacceptable moral costs. To enforce a certain law effectively might, for example, require a government to use measures that infringe civil liberty by employing preventive detention or intrusive searches. In political deliberation we must distinguish principles that could properly be enacted as law from those that could not. What distinguishes justice from other moral ideas is that it is concerned to identify prescriptions a government could adopt as law without unreasonably limiting liberty, invading privacy, or contradicting other laws.

These points can be said to belong to a ‘realistic’ view of politics without being ‘realist’ in the sense of holding that in politics moral considerations should yield to prudential ones, for respect for law is a matter of obligation, not merely expediency. Together they compose the view that to acknowledge the claims of authority, procedure, and political deliberation is to take account not only of power but also of authority. The argument that a state cannot have authority unless it is morally legitimate fails to distinguish moral and political considerations. A law might be thought to be unjust on moral, religious, or utilitarian grounds, or because it was retroactive, secret, or in some other way incompatible with the rule of law. But a law that is unjust can still be authoritative because ‘authority’ and ‘justice’ are distinct considerations.

7

The ‘unreality’ of linking authority—and in international relations, sovereignty—too tightly to moral legitimacy is evident if we understand the international order as it appears in English School theorizing to be a pluralist society of states, one whose members are politically and culturally diverse. That society could not exist except by recognizing the sovereign authority of states on grounds that are independent of moral legitimacy, however defined. Whether a political entity is sovereign is a matter of legal and political decision, not a moral judgment. Political moralists sometimes assume that if a state lacks moral legitimacy it is not entitled to the rights of sovereignty. Political realists assume that if a state is sovereign its legitimacy as

measured by one or another moral standard is irrelevant, though they presume its legitimacy in so far as they take its interests as the good to be advanced by political decision-making and diplomacy. Neither gets the relationship between political and moral legitimacy quite right.

The tension between judgments about sovereignty and legitimacy can be seen in the idea of humanitarian intervention, according to which the rule that ordinarily prohibits intervention is suspended when necessary to deal with the occurrence of genocide or other ‘crimes against humanity’ within a state. The argument for coercive interference in response to such crimes rests is that a state loses its immunity to interference when its government commits or permits violence against those whom it is supposed to protect. The political moralist might argue that such a state is morally illegitimate and therefore cannot claim the rights of sovereignty. The political realist, in contrast, might argue that those rights can be violated to end the violence, and to invoke the idea of a humanitarian ‘crisis’ or ‘emergency’ to justify the violation.³¹ The middle-ground moralist would reject both arguments. A state that fails to perform the basic task of providing a just order for its inhabitants does not lose its sovereignty, understood as a legal status, but it does lose its immunity to intervention aimed at thwarting the violence. The scope of its sovereignty is narrowed to permit others to deal with the problem.

Both the liberal and the middle-ground moralist grant this premise but interpret it differently. The liberal moralist thinks it means that if a government commits atrocities, it is morally illegitimate *and therefore* without authority, which implies that it can be overthrown without violating international law: it has no rights that coercively imposed change of regime would violate. Its claim to govern is conditional on moral legitimacy. The middle-ground moralist, in contrast, thinks it means that if a government commits atrocities, its rights are not violated by a coercive intervention aimed at suppressing them. The offending state loses its right to make choices with respect to that situation but not in other matters. Its government cannot

³¹ Not just the realist but also the moralist trying to be ‘realistic’. See, for example, Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977), 228–32 and 251–63, and Nicholas J. Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: oxford University Press, 2000), 13, 50–51. A number of critics take Michael Walzer to task for abandoning his just war principles when he defends the British bombing of German cities between 1940 and 1943 as the policy of leaders with a proper sense of political responsibility. The first of these was J.M. Cameron in the *New York Review of Books*, December 8, 1977, For criticism of the extremity argument more generally, see Terry Nardin, ‘Introduction’, in Nardin and Melissa S. Williams, eds., *Humanitarian Intervention*, *Nomos* 47 (New York: New York University Press, 2006), 6–9, and ‘Emergency Logic: Prudence, Morality, and the Rule of Law’, in Victor V. Ramraj, ed., *Emergencies and the Limits of Legality* (Cambridge: Cambridge University Press, 2008), 97–117.

rightly be removed, unless removing it is necessary to suppress the atrocities and prevent a recurrence. If not, removing it would violate those sovereign rights the state still has.³² But even though a state's sovereignty is not conditional on its moral legitimacy, it cannot claim the authority to act without interference: there is no authority to commit atrocities. This point is often lost on advocates of reform intervention, who think that the occurrence of atrocities in a state gives other states a warrant not only to suppress the violence and remove the violent regime but also to establish a different *kind* of regime.³³ They would deny not merely some of that state's authority but all of it. This is a very broad reading of the doctrine of 'humanitarian intervention', which is usually interpreted as holding that a state forfeits its immunity only if the violence exceeds a certain threshold. Intervention is always an exceptional remedy. To see it as a potential remedy for any failure of justice in a state is to deny that state the right to manage its affairs. To hold that intervention is justified whenever a community's institutions or policies are unjust is not merely impractical; it is also objectionable because it denies the community the independence to which it is morally entitled. There is a barrier to coercive intervention, then, unless the injustice rises to a level that international law defines as a crime against humanity or the equivalent. This prohibition protects the right of a state to make its own choices—and mistakes. It rests on the assumption that a state is a political community: in Michael Walzer's words, 'a people governed in accordance with its own traditions'—traditions that are not necessarily liberal or democratic—and 'not a gang of rulers acting in its own interests'.³⁴ The argument against intervention is moral as well as prudential.

Linking authority to tightly to moral legitimacy displaces politics in favour of principle, as critics of liberal moralism rightly charge. Arguing about the justice of laws is part of politics. But in the absence of agreement about authority, there is little point in arguing about whether a state's laws are just. Political realism, by subordinating legal and moral obligations to what it calls 'necessity', treats the authority of common rules, whether those of a state or of the

³² By analogy, persons who commit crimes may be deprived of the freedom to do certain things but not others, and certainly not their personal 'sovereignty', that is, status as citizens and the freedom from domination that goes with it.

³³ For an illustrative debate on the scope of humanitarian intervention as an exception to the principle of nonintervention, see Fernando R. Tesón, 'Ending Tyranny in Iraq', *Ethics & International Affairs* 19, no. 2 (2005), 1–20, and Terry Nardin, 'Humanitarian Imperialism', *Ethics & International Affairs* 19, no. 2 (2005), 21–26.

³⁴ Michael Walzer, 'The Moral Standing of States: A Response to Four Critics', *Philosophy & Public Affairs* 9 (1980), 209–29, at 212.

society of states, as merely provisional. Political moralism, by making moral legitimacy the criterion of authority and therefore of sovereignty, reaches the same conclusion by another route. Realism and moralism, despite their differences, agree in providing little room for the claims of authority, law, and political deliberation. A coherent middle-ground ethics must find a position between these extremes that is something other than a compromise with the pursuit of ends defined on one ground or another as desirable.

In my view, then, a coherent middle-ground ethics is one that understands human beings to be inherently independent and sets limits to coercion that reflect that understanding. It sees the moral character of political institutions as based on this independence, while recognizing that political institutions, like all human arrangements, generate their own injustices. The middle ground, on this view, is not an awkward compromise between morality and interest, or morality and power. It is a way of recognizing the claims of law and political institutions as the outcome of human choices. Such an ethics will recognize that states have a claim to authority and therefore a claim to limit, through law, what can be done in the name of either morality or expediency. In taking both morality and law into account, it seeks to fill the space not between right and interest, which is a choice between right and wrong, but between right and right. There are resources within the English School tradition to support such a view, even though Wight, Bull, and other members of the School were unable to articulate it. To succeed where they failed, moralists drawing on that tradition will need to distinguish a distinct and coherent middle-ground ethics from the political realism with which it is too easily confused.