



# In Search of the Good War

## Just War and Realpolitik in Our Time

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*But the right is more precious than peace, and we shall fight for the things which we have always carried nearest our hearts, for democracy . . . for the rights and liberties of small nations, for a universal dominion of right . . . as shall bring peace and safety to all nations and make the world at last free.*

— President Woodrow Wilson, Speech to Congress, 2 April 1917

**I**N THE TWO decades since the Cold War ended, idealism has dominated international relations.<sup>1</sup> International organizations such as the United Nations and the North Atlantic Treaty Organization and liberal democratic states have aggressively promoted democratic values, human rights, and global stability. International law has been the instrument of choice to advance this liberal agenda.

Toward this end, three clear lines of effort stand out:

- A series of multilateral treaties to restrict various means of warfare, i.e., land mines and cluster munitions.
- International efforts under the auspices of the United Nations to promote stability and keep the peace, including coalition military campaigns with tacit or explicit UN support, e.g., the Gulf War, Bosnia, East Timor, and Kosovo.
- A network of international courts designed to bring international wrongdoers to justice when their states would not or could not do so, e.g., international tribunals for Yugoslavia, Rwanda, Cambodia, and Sierra Leone. In 2002 the International Criminal Court was established to eventually replace these ad hoc tribunals.

While these efforts have achieved some significant successes, even liberals will concede that the results are dwarfed by the costs and unanticipated consequences of their agenda.

At the same time, other events, notably the U.S.-led War on Terrorism, demonstrated that powerful individual states can pursue their national self-interests without international or UN approval. The United States sought international legitimacy for its efforts in Afghanistan and Iraq and welcomed coalition support but did not hesitate to act alone when necessary. Sovereignty remains a resilient, powerful force in international relations. Other strong-willed states

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PHOTO: Berliners tear down the Berlin Wall under the gaze of East German "Vopo" (police). On the night of 9 November 1989, the border separating East and West Germany was officially opened, thus symbolising the end of the Cold War. West Berlin, West Germany, 11 November 1989. (Sipa via AP Images)

such as Venezuela, Iran, North Korea, and China have advanced their national agendas despite significant opposition. These countries need not comply with international law or support international efforts. They steer their own course and appear to contravene the rules with only minor consequences, at least in the short term.

Given an apparent lack of consensus as to what international order ought to look like, what rules apply, and the virtual absence of international armed conflict, it seems clear that other dynamics are at work. Persistent threats such as famine, genocide, tyranny, terrorism, and piracy will require attention in the future, but they appear unlikely to cause interstate conflict. For all its disorder, the world remains a remarkably peaceful place.

The above factors have led many to conclude that a period of relative peace is at hand, an era in which most conflicts will be local and states and international organizations like the European Union (if it survives) will pursue their own interests but avoid confrontation wherever possible. Shoring up the global economy has become the primary focus of major economic powers. War is an expensive, destructive luxury few can afford. Global order may well depend on a new balance of power much like the ones that existed for centuries before World War II. In this environment, Just War theory assumes greater relevance. In relative terms, international law is an exhausted force, and traditional models of legitimacy like Just War will fill the void, although neither will stop states from asserting sovereignty when their interests dictate. Realpolitik has replaced the idealism ascendant for the past two decades.<sup>2</sup>

## Just War and Law

A Western philosophical tradition dating back some 1,600 years, Just War theory outlines a moral and military theory for warfare containing two parts: *jus ad bellum*, or justice toward war, the moral and legal basis for using military force; and *jus in bello*, or *justice in war*, the means and methods used to wage war.

*Jus ad bellum* grants moral legitimacy to waging war in certain circumstances, referred to as the Just War Criteria. These include a just cause, just intent, last resort, legitimate authority, public declaration, proportionality, and a reasonable hope of success.



*Triumph of St. Thomas Aquinas*, Benozzo Gozzoli, 1468-1484, Tempera on panel, Musée du Louvre, Paris.

*Jus in bello* dictates that combatants show respect for morality and discriminate between combatants and noncombatants when they wage war, and use force with proportionality, i.e., inflict no greater damage than that necessary to achieve legitimate ends.

Saint Augustine and Saint Thomas Aquinas are considered the major architects of Just War theory, which also draws from Greek and Roman moral philosophy, natural law, and principles of chivalry. Many associate Just War theory with Western Christian thought, but parallels to it exist in most religious traditions, including the Confucian, Jewish, Buddhist, Hindu, and Islamic. In general, *jus ad bellum* exists in the realm of the politician, and *jus in bello* in the realm of the soldier. However, decisions made in one realm can and do affect the other. This article examines *jus ad bellum* as it relates to justification for modern conflict.<sup>3</sup>

## Jus ad Bellum

Over time, starting with Hugo Grotius in the 17th century, Just War theory provided a moral framework for international law and a basis for international

agreements. Nonetheless, before World War I in 1914, few formal treaties governed armed conflict. Early efforts included the American Lieber Code in 1863, the first Geneva Convention of 1864, and the Hague Conventions of 1899 and 1907, which codified existing practices involving the means and methods of warfare as well as humanitarian concerns for the wounded and noncombatants. Apart from Just War theory, nothing prevented a state from going to war. States fought wars for trivial and important reasons, and no entity and no rules regulated the beginning or end of war aside from international public opinion. (An exception was the Catholic Church in Europe before the Protestant Reformation, and even then, the Church's "control" was minimal.) Borrowing from Just War theory, The Hague Convention of 1899 required that parties to the treaty officially and publicly declare war on one another. Nations entering into conflict followed this procedure in 1914 and again in 1939 and 1941, but not since then. United Nations Security Council Resolutions appear to be the modern versions of declarations of war. Increasingly, states and coalitions of states seek approval to use military force to advance humanitarian values. Such "humanitarian interventions" have no firmly established basis in customary or international law, and are typically advocated in Just War terms.

At Versailles in 1919, the world's major nations tried to create an international organization to maintain peace and prevent war. Just War theory's moral principles did not prevent World War I. All parties to that conflict claimed moral superiority and believed that God was on their side. However, representatives at Versailles hoped to use international law to enforce Just War principles.<sup>4</sup> The League of Nations was designed to prevent war or at least to keep nations from revisiting war on the scale of World War I. Through an international assembly, a court of justice, and mutual security arrangements, the League was supposed to apply the rule of law to create and maintain international order. In practice, the League used its status

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and collective might to deter or defeat aggressors and maintain the peace when deterrence failed.

It was a good idea, but one whose time had not yet come. The victorious European powers, France, England, and Italy, were too drained to fully embrace a League of Nations and faced pressing problems at home. Russia was involved in revolution and civil war. Japan had its own agenda. Central Europe was still reorganizing itself after the collapse of the Austrian-Hungarian Empire, and the United States refused to join the League, even though President Wilson was one of its architects.

The League operated in relative obscurity as states pursued normalcy and prosperity in the 1920s, fought a global depression in the 1930s, and then began rearming for World War II. The harsh reparations imposed on Germany at Versailles caused hardship and resentment that assisted Hitler's rise to power. The League failed to stop German, Italian, or Japanese aggression during the 1930s, or prevent a Second World War in 1939.

The world had a second chance at law and order in 1945. World War II's carnage dwarfed that of World War I and ended with the creation and use of atomic weapons. War became an even greater danger in the atomic age. The creation of the United Nations in 1945 enjoyed almost universal support, and the UN Security Council was given broad powers to keep and enforce the peace. Members renounced the aggressive use of force and agreed to peaceful resolution of disputes, while retaining the right to self-defense and collective action through the UN Security Council or regional organizations such as NATO. The UN Charter became the central legal element of the postwar world. In 1949, the Geneva Conventions improved the protections afforded to combatants and noncombatants and added an element of international humanitarian law to the mix. Over the ensuing decades, states negotiated aggressive arms control treaties that limited or outlawed the use of certain weapons. These developments, along with Cold War tensions, contributed to making interstate war a rare phenomenon. The trials at Nuremberg and Tokyo following the war established the precedent that war crimes carried consequences. Nuremberg seemed an ideal marriage of law and morality, and later treaties banned genocide and created the International Criminal Court; these served to create a comprehensive legal structure.





Men and equipment from the First U.S. Army pour across the Remagen Bridge, Germany, 11 March 1945.

## Keeping Order in a Disorderly World

The world after 1945 remained a contentious and violent place. Despite the relative stability of the Cold War between the United States and the USSR, conflicts such as Korea and Vietnam threatened the peace. Ultimately, fear of escalation and nuclear brinkmanship tended to localize conflicts, which were often fought by proxy states representing the two principal powers. Since the collapse of the USSR and the end of the Cold War, most conflicts have been localized and intrastate in nature. Examples include the Balkan Wars surrounding the breakup of Yugoslavia, the failure of states such as Somalia, the Congo, and Haiti, and civil wars in Rwanda and Indonesia (East Timor). (The Gulf War of 1990-1991 is a notable exception.) Military intervention has typically been motivated by humanitarian concerns such as ending the suffering of those caught up in the conflict, terminating the conflict, restoring peace, or keeping a fragile peace already

in place. For a time after the collapse of the Soviet Union, the United States enjoyed almost complete political and military dominance; American leadership or support was the critical factor in almost all international “adventures.” Some referred to the United States as a “hyperpower.” This era slowly unraveled after 11 September 2001.

The invasion, occupation, and rebuilding of Iraq and Afghanistan will soon appear in our rear-view mirrors as isolated events representing an earlier period. At the time they were considered necessary responses to a series of coordinated terrorist attacks directed against the United States. However, it is unlikely that the United States or any other power will act in this fashion again for many years to come. Terrorist organizations, particularly Al Qaeda, have been significantly weakened and driven into hiding. Moreover, the financial and political cost of these interventions exceeded all estimates while the outcomes fell short of expectations.

Current international tensions revolve around rogue states that flaunt the established order with alarming frequency. North Korea, Iran, and Venezuela are typical of these. Potential for serious interstate conflict exists on the Korean Peninsula, in the Middle East, in the South China Sea, and between India and Pakistan. The United States and China are trading partners, but also competitors whose national security interests clash in several areas. Things may get worse before they get better. Despite these trends, the likelihood of interstate war remains low, at least for now.<sup>5</sup>

The biggest challenges facing the global community involve sustaining conditions for international trade, commerce, and political growth, while deterring or suppressing major threats to the peace. Some state or group of states must ensure the security of the global commons—the air and sea routes that make the world's economy prosper. Failed states, rogue states, terrorists, and pirates threaten international or regional stability. The UN and other international organizations have helped to build a framework of treaties to facilitate stability, and the UN Security Council has been active in efforts to maintain the peace, but all have proven disappointing in enforcing international law.

Enforcement remains the domain of powerful sovereign states that choose their fights and cannot be compelled to act against their national interests. The UN Security Council, for example, has imposed a series of sanctions on Iran for violation of the Nuclear Nonproliferation Treaty, including embargoes on Iranian oil and other efforts aimed at crippling their economy. China did not exercise its veto to stop these resolutions in the Security Council, but refuses to curtail its purchases of Iranian oil, because the Chinese need it to sustain their economy. No one can force China to support the embargo. Similarly, China has voiced a concern shared by many states in Asia and Africa that international law as currently constructed is a legacy of Western colonial powers and supports

only Western interests. Further, the Chinese have indicated that they are not legally or morally bound by these rules. This position weakens international law as a foundation of order, particularly if it becomes widespread. Russia likewise pursues an independent course and only selectively abides by international norms. All this leaves sovereignty principles and balance of power politics as alternative foundations for international order. They have worked before but, as we discussed earlier, events of the 20th century illustrate what happens when a precarious balance of power fails.

In practice, some accommodation between idealism and realpolitik should emerge, and everyone will have to cooperate. The international system that has evolved since 1945 is not going away. It provides essential structures and tools to maintain peace and prosperity on a global scale. Most states have accepted the established order and signed the treaties. However, if this hybrid system is to work, idealists will have to contend with stubborn sovereign states pursuing their own national interests. Political scientist John Mersheimer reminded us that great powers behave as their interests dictate.<sup>6</sup> Sovereignty is alive and well, after all; rumors of its death were greatly exaggerated.

As a practical matter, the United Nations and other international organizations such as NATO play important roles in maintaining peace and economic stability, but they struggle to make rogue regimes comply with their guidelines and wishes.

Treaties regulate nuclear and conventional weapons and have effectively eliminated chemical and biological weapons, but treaties alone cannot defeat terrorists, rebel groups, or even global warming.<sup>7</sup> The International Criminal Court (ICC) seeks to bring international war criminals, despots, and others to justice when their governments will not or cannot do so.<sup>8</sup> Ironically, however, the ICC lacks jurisdiction over terrorism and piracy, two major threats facing global society in the 21st century. Leading powers, including the United States,

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Russia, and China, are not parties to the ICC and thereby weaken its authority and influence. Despite Security Council resolutions and international sanctions, Iran's nuclear program continues. North Korea developed nuclear weapons outside the Nuclear Nonproliferation Treaty, as did Pakistan and India, and Iran may soon join them. That these states were able to thumb their noses at international institutions and treaties with relative impunity demonstrates the weakness of international law when confronted with stubborn, relatively well-armed sovereign states that refuse to play by the rules of globalization.<sup>9</sup> Even relatively weak states such as North Korea, Myanmar, and Sudan, not to mention Somalia, have managed to survive as international outlaws.

## Humanitarian Intervention and Just War Theory

Disregarding for a moment the relative merits of some international interventions, the legal basis for humanitarian intervention remains suspect after two decades of experimentation. International law recognizes the authority of the UN Security Council to address threats to peace and acts of aggression and to decide how to "maintain or restore international peace and security."<sup>10</sup> The United Nations recognizes the right of states individually and collectively to act in self-defense. However, the UN Charter does not provide a third option. One might ask why the United Nations has never suspended or expelled states that fail to live up to UN principles or comply with UN resolutions, but that subject is best left for another time and place.<sup>11</sup> The founding principles of the UN are set out in Article 2:

1. The Organization is based on the principle of the sovereign equality of all its members...4. All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state...7. Nothing...in the present charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present charter.<sup>12</sup>



An M-113A2 rolls out of a USAF C-141 Starlifter at the airport near Kampala, Uganda, for use in the peacekeeping efforts underway in neighboring Rwanda, 23 June 1994. (U.S. Air Force)

The United Nations is designed to keep the peace and resolve "international disputes or situations which might lead to a breach of the peace."<sup>13</sup> The Security Council in Chapter VII is charged with responsibility for assessing and dealing with threats to the peace. While the United Nations seeks "international cooperation in solving problems of an economic, social, cultural, or humanitarian character," this is an aspirational goal only, not an enumerated power.<sup>14</sup> Chapter VII mandates are predicated on threats to international peace and security, not threats to the exercise of human rights within sovereign states. This last point is, as we have seen, contentious.

Humanitarian intervention may succeed in instances where the oppressor lacks serious capability to oppose the effort or to inflict broader damage. The Libyan intervention by NATO in 2011 was a recent case in point, although we have yet to see what kind of government replaces Khadafy's. Intervention is not an option in the case of North Korea, not because the regime hasn't oppressed or killed millions of its own citizens and threatened its neighbors, but because intervention would likely kill or injure millions more. More recently, Syria has used its Army to quell internal dissent, including firing artillery into cities and towns where opponents of the regime live. Despite condemnation



from many states and The Arab League, the UN has been unable to impose sanctions on Syria in the face of threatened vetoes by Russia and China. Given Syria's location and the risk of broader conflict possibly involving Lebanon, Israel, and Iran, no Western-led coalition is likely to attempt there what NATO did in Libya.

After the UN failed in 1992 and 1993, NATO intervened in Bosnia in 1995 and encountered little or no opposition from Serbia or ethnic Serbs.<sup>15</sup> Similarly, following a brief bombing campaign against Serbia, NATO forces and the UN peacefully entered Kosovo in 1999.<sup>16</sup> U.S.-led interventions in Iraq and Afghanistan demonstrated the difficulty of establishing stability, much less democracy, in larger states where significant armed opposition exists.

Another consideration is that some interventions over the past two decades failed to create order, prosperity, or democracy, leaving instability in their wake. Somalia and Haiti immediately spring to mind. In Bosnia, the underlying socio-political conflict remains unresolved 17 years later, and Kosovo's final status is unclear 13 years after intervention.

Trying to define a norm governing humanitarian intervention is difficult. The UN Security Council acts when it can pass a resolution without veto; individual states and coalitions act when they consider the costs and risks affordable. In practice, only weaker states need worry. The moral of the story for dictators and heads of rogue regimes is clear: get strong fast, and nothing says strong like nuclear weapons. They are a great insurance policy. Is it any wonder Iran is so intent upon producing weapons-grade plutonium?

It is difficult to fit humanitarian intervention into a legal frame. Applying Just War theory is a better fit (disregarding for now the inherent violation of state sovereignty). According to Kofi Annan, former secretary general of the United Nations, state sovereignty means "states are now widely understood to be instruments at the service of their peoples, and not vice versa."<sup>17</sup> Kofi Annan is a practical politician, not a revolutionary; his language evokes Thomas Jefferson's in the Declaration of Independence: "That to secure these rights, Governments are instituted among Men, deriving their just power from the consent of the governed." Our founding



(DOD)

U.S. Army LTC Robin Swan, TF1-26 commander, and Chief Vasic, Chief of Police for Zvornik, Bosnia-Herzegovina, walk down a dirt road past Checkpoint Sierra, accompanied by other U.S. military personnel, Bosnia police officers, and Bosnia civilians, prior to resettlement of Bosnia Muslims into Mahala, Bosnia-Herzegovina, during Operation Joint Endeavor, 1 February 1997.

fathers believed that states exist to promote and protect individual freedoms and lose their legitimacy when they do not, although the founding fathers envisioned governments being changed from within by the people, not from without by humanitarian intervention. Intervention to save innocent civilians from unjustified maltreatment by their government can fulfill most criteria of *jus ad bellum*: just intent, last resort, public declaration, proportionality, and reasonable hope of success in most cases. When the UN Security Council directs action under the UN Charter, legitimate authority is satisfied, at least in the minds of most UN members. If NATO intervenes, as it did in the Balkans in 1995, a lesser, but still solid, argument for legitimacy exists. In fact, the UN Security Council established a UN mission in Sarajevo almost immediately after NATO troops entered Bosnia, thus in effect sanctioning their action. A similar sequence of events occurred after NATO intervened in Kosovo in 1999. The UN-supported intervention in Libya in 2011 also substantially satisfied Just War criteria. Paradoxically in some cases, intervention in the internal affairs of sovereign states may be both humane and ethical, producing a greater good, yet illegal and a violation of international law.

Based on the above discussion, we can draw several broad conclusions about contemporary international relations.

First, international institutions, shared principles, and an interlocking network of international agreements remain important tools for solving today's problems. Global problems require global solutions; sovereign states cannot solve them, although they can address symptoms within their borders. Most, eventually, will require international cooperation. The challenge for leaders today is what action to take as part of an international community when states deliberately and systematically violate the human rights of their citizens.<sup>18</sup> It's easy to say that it's not our problem unless our citizens or interests are directly threatened, but it is more complicated than that. Given the limitations and constraints inherent in international law and a resurgence of state sovereignty, it is logical to expect Just War theory, particularly *jus ad bellum* or some variation thereon, to play a larger role in international discourse. This represents the enduring strength of moral and ethical values and moral philosophy in public affairs.

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Second, it would take another article to discuss whether Just War theory can prove effective in shaping international events. Realists would say that idealism remains a utopian concept that ignores the timeless aspects of human nature. As Thucydides reminds us in his *History of the Peloponnesian Wars*, "It is impossible to prevent, and only great simplicity can hope to prevent, human nature doing what it has once set its mind upon, by force of law or by any other deterrent force whatsoever."<sup>19</sup> Men are governed by fear, self-interest, and honor, according to Thucydides, writing over 2,400 years ago. Human nature is substantially unchanged, and even more self-evident, in a time of instantaneous global communication. Can our contemporary institutions in conjunction with moral philosophy, religion, and ethics successfully overcome the worst aspects of our nature? My answer would be sometimes, not always, and I hope so. Intellectually, I believe it is a long shot.<sup>20</sup>

Third, any assessment of Just War theory applied to contemporary events must take into account cultural differences. While some model of moral legitimacy in war is a feature of non-Western societies, Just War as we tend to envision it represents western European, Greco-Roman, and Judeo-Christian influences. That excludes a large segment of humanity, including emerging political, economic, and military powers. Nation-states such as Iran, China, Egypt, and India have different cultural and historical traditions that influence how they view legitimacy in international conflicts.

Finally, other considerations must influence how we apply Just War theory in the 21st century. Sovereignty, a concept we associate with 17th century Europe and the Treaty of Westphalia, is firmly entrenched everywhere and remains the building block of international relations. The United Nations, the world's most influential international organization, is predicated on sovereign states



working together to resolve conflict. A violation of sovereignty still constitutes *casus belli*, or grounds for war. The fact that war remains a rare phenomenon may tell us more about our contemporary institutions than our sensibilities. It is unrealistic to expect consensus on actions such as forced regime change, intervention to prevent genocide, and even severe sanctions, all of which constitute violations of sovereignty. Americans view sovereignty with almost religious devotion and will call for revenge, even war, against any state or group that dares to violate American sovereignty. For evidence of this, we need look no further than the American response to the attacks of 11 September 2001.

Less apparent is the possibility that nationalism, the driving force of 19th century European politics, may underlie today's resurgence of sovereignty. Iran and China have long, distinctive histories, and national identities reaching back to antiquity. They frequently assert their sovereignty in nationalistic terms. India behaves similarly, and for many of the

same reasons. Americans would rank near the top on any nationalism scale; for proof, simply listen for chants of "U.S.A!" at any Olympic Games. Attempts to dictate or even influence domestic events in states with strong nationalist traditions are met with aggressive language and threats of potential violence. This too, is part of our Just War dialogue.

## Conclusion

International law, at least for the time being, is a spent force in shaping international events, particularly decisions involving war and peace. In a global security environment that increasingly resembles an earlier, multipolar world, we need to look at earlier approaches to guide us. These include balancing power and interests, and applying more traditional concepts of legitimacy when we consider resorting to military force. These concepts of legitimacy bring Just War theory and sovereignty into play. How these two concepts interact in practice will influence events for years to come. **MR**

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## NOTES

1. The term "idealism" is one of several used to describe differing theories of international relations. Idealism in modern usage encompasses two distinct theories: liberalism, based on classical liberal democratic thought, institutions, and free market capitalism; and constructivism, which emphasizes the centrality of values and principled activism in international relations. For simplicity, I have compared and contrasted idealism with "realism," or "realpolitik," which emphasizes the role of power and national interests in shaping events. See Jack Snyder, "One World, Rival Theories," *Foreign Policy* (November-December 2004).

2. Kissinger defines realpolitik as "foreign policy based on calculations of power and the national interest." Henry Kissinger, *Diplomacy* (New York: Touchstone, 1994), 137, 804. Kissinger cautioned us almost 20 years ago that the United States went crusading to advance its moral values twice in the 20th century, in 1919 and again in 1945, with mixed results. He said that America appeared to be doing so again, and events since then appear to bear this out. His prediction then was that America would again fall short of shaping world order in its image. Readers can draw their own conclusions as to whether or not he was correct.

3. Martin J. Cook, "Ethical Issues in War, an Overview, chap. 14, *The U.S. Army War College Guide to National Security Policy and Strategy, vol. II, National Security Policy and Strategy*, edited by J. Boone Bartholomees, Jr., Strategic Studies Institute, U.S. Army War College, Carlisle, PA (3rd Edition, 2008). I am indebted to Martin and to a JAG Corps mentor, Professor William Eckhardt, for helping me to understand the nexus between law and just war. If I have misstated anything, it is my fault, not theirs.

4. "At the end of the First World War, the age-old debate about the relative roles of morality and interest in international affairs seemed to have been resolved in favor of the dominance of law and ethics." Kissinger, *Diplomacy*, n. 1 at 247.

5. See Epilogue, "Does History Repeat Itself?" Henry Kissinger, *On China* (New York: Penguin, 2011), 514; Joshua S. Goldstein and Steven Pinker, "War Really is Going out of Style," *The New York Times*, 17 December 2011.

6. John J. Mersheimer, *The Tragedy of Great Power Politics* (New York: W.W. Norton & Company, 2001), 2-3.

7. For example, the START and SALT strategic arms negotiations and Anti-Ballistic Missile (ABM) treaties with the USSR, and multilateral international agreements, including the Conventional Weapons Treaty, 1980; the Chemical Weapons Convention, 1993; and the Ottawa Treaty on Anti-Personnel Land Mines, 1997.

8. The Rome Statute of the International Criminal Court (United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, 17 July 1998).

9. Thomas Friedman, *The Lexus and the Olive Tree* (New York: Farrar, Straus and Giroux, 1999). Friedman postulated that eventually everyone who wanted to participate in the benefits of globalization would be bound by its rules—the "golden straitjacket," as he called them.

10. Charter of the United Nations, Article 39.

11. Article 5 of the Charter of the United Nations provides for suspension; Article 6 for expulsion.

12. Charter of the United Nations, Article 2.

13. *Ibid.*, Article 1.

14. *Ibid.*

15. CIA—*The World Factbook*, accessed at <<https://www.cia.gov/library/publications/the-world-factbook/geos/bk.html>>, 23 December 2011, The General Framework Agreement for Peace in Bosnia and Herzegovina, 21 November 1995, commonly called the Dayton Peace Accords, created two semi-autonomous entities, the Bosniak/Bosnian Croat Federation and the Bosnian Serb-led Republika Sprska (RS).

16. *Ibid.* NATO intervened in Kosovo in 1999. Kosovo declared independence in 2008, and more than 70 states currently recognize it, but Serbian objections and Russian backing have kept Kosovo from gaining admission to the United Nations.

17. Kofi A. Annan, "Two Concepts of Sovereignty," *The Economist* (18 September 1999): 49.

18. See Thomas W. McShane, "Blame it on the Romans: Pax Americana and the Rule of Law," *Parameters* 32 (Summer 2002): 57.

19. Thucydides, *The History of the Peloponnesian War*, trans. by Richard Crawley and revised by Donald Lateiner (New York: Barnes & Noble Classics, 2006), book 3, para. 45. His most famous line, from the Melian Dialogue in Book 5, is "the strong do what they can and the weak suffer what they must."

20. See Robert D. Kaplan, *Warrior Politics* (New York: Vintage, 2002). Kaplan believes moral force is critical, but physical force, strength, determination, constant vigilance, and what he calls "a pagan ethic" are necessary if men want peace more than war.