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Rethinking the sovereign state model

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The Peace of Westphalia, which ended the Thirty Years' War in 1648, is generally understood as a critical moment in the development of the modern international system composed of sovereign states each with exclusive authority within its own geographic boundaries. The Westphalian sovereign state model, based on the principles of autonomy, territory, mutual recognition and control, offers a simple, arresting, and elegant image. It orders the minds of policymakers. It is an analytic assumption for neo-realism and neo-liberal institutionalism. It is an empirical regularity for various sociological and constructivist theories of international politics. It is a benchmark for observers who claim an erosion of sovereignty in the contemporary world.

This essay demonstrates, however, that the Westphalian sovereign state model has never been an accurate description of many of the entities that have been regarded as states.[1] In fact, the Peace of Westphalia itself had almost nothing to do with what has come to be termed the Westphalian system although I use the term here in deference to common usage. The idea that states ought to be autonomous, free from intervention by external actors was only developed as an explicit principle in the last part of the eighteenth century by the Swiss international jurist Emmerich de Vattel. The assumption that states are independent rational actors can be misleading because it obfuscates the existence of many situations in which rulers have, in fact, not been autonomous. The now almost commonplace view that sovereignty is being eroded is historically myopic. Breaches of the sovereign state model have been an enduring characteristic of the international environment. The principle of autonomy has been violated in the name of other norms including human rights, minority rights, democracy, communism, fiscal responsibility, and international security. Mutual recognition has not always gone to juridically independent territorial entities. There has never been some golden age for sovereignty. The sovereign state model has always been a cognitive script; its basic rules are widely understood but also frequently violated. Normative structures have been decoupled from actual behaviour either because actors embrace inconsistent norms such as human rights and non-intervention, or because logics of consequences driven by power and interest trump logics of appropriateness dictated by norms and principles.[2]

[1] This essay develops some of the arguments published earlier as Stephen D. Krasner, 'Compromising Westphalia', *International Security* 20:3 (1995/6). pp. 115–51.

[2] For the distinction between a logic of appropriateness and a logic of consequences see James G. March and Johan Olsen, 'The Institutional Dynamics of International Political Orders', *International Organization*, 52 (1998) and James G. March, with the assistance of C. Heath, *A Primer on Decision Making : How Decisions Happen* (New York: Free Press, 1994).

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The sovereign state model is a system of political authority based on territory, mutual recognition, autonomy, and control. Territoriality means that political authority is exercised over a defined geographic space rather than, for instance, over people, as would be the case in a tribal form of political order. Autonomy means that no external actor enjoys authority within the borders of the state. Mutual recognition means that juridically independent territorial entities recognize each other as being competent to enter into contractual arrangements, typically treaties. Control means that there is an expectation not only that sovereign states have the authority to act but also that they can effectively regulate movements across their borders and within them.

Territorial violations of the sovereign state model involve situations in which authority structures are not coterminous with geographic borders. Examples include the European Union with its supranational institutions and qualified majority voting, Andorra, where France and Spain appoint members to the highest court, and the Exclusive Economic Zone (EEZ) for the oceans, within which the coastal state exercises control over commercial activities like seabed exploitation but not shipping.

Violations of the principle of autonomy involving situations in which an external actor is able to exercise some authoritative control within the territory of a state, have been a persistent feature of the Westphalian sovereign state system. Autonomy can be transgressed both if rulers agree to governance structures that are controlled by external actors, or if more powerful actors impose institutions, policies, or personnel on weaker states. Examples of transgressions of autonomy include bondholders' committees that regulated financial activities in some Balkan states and elsewhere in the nineteenth century, International Monetary Fund (IMF) conditionality, protectorates in which major powers control foreign but not domestic policy, provisions for the treatment of minorities imposed on central and eastern European states after the Balkan War of the 1870s and World War I, and the Soviet imposition of communist regimes on its satellite states after the Second World War.

Compromises of Westphalia have occurred in four ways—through conventions, contracting, coercion, and imposition. These four modalities are distinguished by whether the behaviour of one actor depends on that of another and by whether at least one of the actors is better off and none worse off. In conventions, rulers enter into agreements, such as human rights accords, from which they expect some gain, but their behaviour is not contingent on what others do. In contracting, rulers agree to violate the sovereignty of their own state contingent on other signatories honouring their part of the bargain. In coercion, the rulers of stronger states make weaker ones worse off by making credible threats to which the target might or might not acquiesce, or engaging in unilateral moves which undermine the bargaining position of the weaker state. In imposition, the target is so weak that it has no option but to comply with the preferences of the stronger.

Conventions, contracts, coercion, and imposition have all been enduring patterns of behaviour in the international system. Every major peace treaty since 1648—Westphalia, Utrecht, Vienna, Versailles, Helsinki, and Dayton—has violated the sovereign state model in one way or another. Compromising the sovereign state model is always available as a policy option because there is no authority structure to prevent it: nothing can preclude rulers from transgressing against the domestic autonomy of other states or recognizing entities that are not juridically autonomous.

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In the international system, institutions are less constraining and more malleable, more subject to challenge than in more settled circumstances. The mechanisms for locking in particular institutional forms, such as socialization, positive reinforcement between structures and agents, or path-dependent processes, are weaker at the international level than in well-established domestic polities. Rulers are more responsive to domestic constituents who might, or might not, embrace the norms of the Westphalian sovereign state system. Power is asymmetrical making coercion and imposition available options.

The sovereign state model is a cognitive script characterized by organized hypocrisy. Organized hypocrisy occurs when norms are decoupled from actions. Actors say one thing and do another. In the international environment this occurs both because actors endorse norms that can be mutually inconsistent, such as universal human rights and non-intervention, and because logics of consequences usually trump logics of appropriateness. Organized hypocrisy is characteristic of any political organization whose leaders must appeal to different constituencies.[3] The problem of uniting principles and actions is more acute in international environments than domestic ones because the norms embraced by local and foreign actors will not always coincide and because the opportunities for action based on coercion and the use of force are greater. All international systems, whether the Westphalian sovereign state system or the Sinocentric tributary state system or the medieval European world of overlapping authority, have been characterized by organized hypocrisy.[4]

Defining sovereignty

In practice the term sovereignty has been used in many different ways. In contemporary usage four different meanings of sovereignty can be distinguished: interdependence sovereignty, domestic sovereignty, Vattelian sovereignty, and international legal sovereignty.

Interdependence sovereignty refers to the ability of states to control movement across their borders. Many observers have argued that sovereignty is being eroded by globalization resulting from technological changes that have dramatically reduced the costs of communication and transportation. States cannot regulate transborder movements of goods, capital, people, ideas, or disease vectors. Governments can no longer engage in activities that have traditionally been understood to be part of their regulatory portfolio: they cannot conduct effective monetary policy because of

[3] The idea of organized hypocrisy is developed in Nils Brunsson, *The Organization of Hypocrisy*: *Talk, Decisions and Actions in Organizations*, trans. Nancy Adler (Chichester, UK and New York: Wiley, 1991). For a discussion of political organizations see especially pp. 27–31. For a discussion of decoupling see W. Richard Scott, *Institutions and Organizations* (Thousand Oaks, CA: Sage, 1995), and John W. Meyer, John Boli, George M. Thomas, and Francisco O. Ramirez, 'World Society and the Nation-State', *American Journal of Sociology*, 103 (1997).

[4] For the Sinocentric system see Stephen D. Krasner, 'Organized Hypocrisy in 19th Century East Asia', *International Relations of the Asia Pacific*, 1 (2001). For the medieval system see Marcus Fischer, 'Feudal Europe, 800–1300: Communal Discourse and Conflictual Practices', *International Organization*, 46 (1992).

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international capital flows; they cannot control knowledge because of the Internet; they cannot guarantee public health because individuals can move so quickly across the globe. The issue here is not one of authority but rather of control. The right of states to manage their borders is not challenged, but globalization, it is asserted, has eroded their ability to actually do so.

Domestic sovereignty refers to authority structures within states and the ability of these structures to effectively regulate behaviour. The classic theorists of sovereignty, Bodin and Hobbes, were concerned primarily with domestic sovereignty. Both wrote in the context of religious wars in Europe that were destroying the stability of their own polities; Bodin himself was almost killed in religious riots in Paris in 1572. They wanted above all to establish a stable system of authority, one that would be acknowledged as legitimate by all members of the polity regardless of their religious affiliation. Both endorsed a highly centralized authority structure and rejected any right of revolt.[5] In practice, the vision of Bodin and Hobbes has never been implemented. Authority structures have taken many different forms including monarchies, republics, democracies, unified systems, and federal systems. High levels of centralization have not been associated with the order and stability that Bodin and Hobbes were trying to guarantee.

The acceptance or recognition of a given authority structure is one aspect of domestic sovereignty; the other is the level of control that officials can actually exercise. This has varied dramatically. Well ordered domestic polities have both legitimate and effective authority structures. Failed states have neither. The loss of interdependence sovereignty, which is purely a matter of control, would also imply some loss of domestic sovereignty, at least domestic sovereignty understood as control, since if a state cannot regulate movements across its borders, such as the flow of illegal drugs, it is not likely to be able to control activities within its borders, such as the use of these drugs.

Vattelian sovereignty refers to the exclusion of external sources of authority both *de juri* and *de facto*. Many analysts, including myself, who have argued that the principle of autonomy did not have much to do with 1648 have in the past used the term Westphalian sovereignty. The notion that states could do as they pleased within their own borders had almost nothing to do with the Peace of Westphalia. The principle that rulers should not intervene in or judge domestic affairs in other states was actually introduced by two international legal theorists in the latter part of the eighteenth century, Emmerich de Vattel and Christian Wolff. Wolff wrote in the 1760s that 'To interfere in the government of another, in whatever way indeed that may be done is opposed to the natural liberty of nations, by virtue of which one is altogether independent of the will of other nations in its action'.[6] During the nineteenth century the principle of non-intervention was championed by the Latin

[5] Jean Bodin, *On Sovereignty: Four Chapters from The Six Books of the Commonwealth*, ed. and trans. Julian H. Franklin (Cambridge: Cambridge University Press, 1992), pp. 13–14; Quentin Skinner, *The Foundations of Modern Political Thought*, volume 2: *The Age of Reformation* (Cambridge, UK: Cambridge University Press, 1978), pp. 284–87.

[6] Quoted in Aaron J. Thomas and Ann Van Wynen Thomas, *Non Intervention; The Law and Its Import in the Americas* (Dallas, TX: Southern Methodist University Press, 1956), p. 5. See also Emmerich de Vattel, *The Law of Nations; or, Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns*. From the new edition trans. Joseph Chitty (Philadelphia: T. & J. W. Johnson, Law Booksellers, 1852), p. 155.

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American states, the weaker entities in the international system. It was not formally accepted by the United States until the 1930s.

International legal sovereignty refers to mutual recognition. The basic rule of international legal sovereignty is that recognition is accorded to juridically independent territorial entities which are capable of entering into voluntary contractual agreements. States in the international system, like individuals in domestic polities, are free and equal. International legal sovereignty is consistent with any agreement provided that the state is not coerced.[7]

The rules, institutions, and practices that are associated with these four meanings of sovereignty are neither logically nor empirically linked in some organic whole. Sovereignty refers to both practices, such as the ability to control transborder movements or activities within a state's boundaries, and to rules or principles, such as the recognition of juridically independent territorial entities and non-intervention in the internal affairs of other states. A state might have little interdependence sovereignty, be unable to regulate its own borders, but its Vattelian sovereignty could remain intact so long as no external actor attempted to influence its domestic authority structures. A failed state like Somalia in the late 1990s offers one example. States can enjoy international legal sovereignty, mutual recognition, without having Vattelian sovereignty; the eastern European states during the Cold War whose domestic structures were deeply penetrated by the Soviet Union offer one example. States can voluntarily compromise their Vattelian sovereignty through the exercise of their international legal sovereignty: the member states of the European Union have entered into a set of voluntary agreements, treaties, that have created supranational authority structures such as the European Court of Justice and the European Monetary Authority. States can lack effective domestic sovereignty understood either as control or authority and still have international legal sovereignty—Zaire/Congo during the 1990s is an example. Sovereignty is a basket of goods that do not necessarily go together.[8]

Sovereignty and international relations theory

The sovereign state model is a basic concept for the major theoretical approaches to international relations, including neorealism and neoliberal institutionalism, for both of which it is an analytic assumption, as well as international society perspectives, for which it is a constitutive norm. For neorealism, the ontological givens in the international system are Westphalian sovereign states, understood as unitary rational actors operating in an anarchic setting and striving to enhance their well-being and security. These states are constrained only by the external environment, that is, by the power of other states. Realism does not suppose that all states can guarantee their autonomy. If, however, a state loses its autonomy—if, for instance,

[7] Lassa Oppenheim, *Oppenheim's International Law*, 9th edn. Edited by Sir Robert Jennings and Sir Arthur Watts (Harlow, Essex: Longman, 1992), pp. 365–7.

[8] Michael Ross Fowler and Julie Marie Bunck, *Law, Power, and the Sovereign State: The Evolution and Application of the Concept of Sovereignty* (University Park, PA: The Pennsylvania State University Press, 1995), pp. 116–117.

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its political structures and personnel are chosen by others—then neorealism has nothing to say about how such penetrated states which do not have Vattelian sovereignty might act. The relations between Czechoslovakia and the Soviet Union after the Prague Spring of 1968, for instance, are not amenable to realist analysis. Czechoslovakia was not responding to external constraints, as an autonomous or Vattelian state might. Its policies were dictated by externally imposed constitutional structures and personnel.

Similarly, the sovereign state model is an analytic assumption for neoliberal institutionalism.[9] The actors are assumed to be Westphalian sovereign states, unified rational autonomous entities striving to maximize their utility in the face of constraints that emanate from an anarchic although interdependent international environment. What distinguishes neoliberalism from neorealism is its different understanding of the characteristic problem for these states: for neoliberal institutionalism, the problem is the resolution of market failures, whereas for neorealism it is security and distributional conflicts.

The sovereign state model is also a core concept for international society approaches, most notably the English School and various constructivist approaches.[10] Here the sovereign state model is understood as a constitutive norm which generates actors and defines their competencies. All participants in international society—public officials, diplomats, statesmen, political leaders—hold the same fundamental views about the nature of the system, the actors, and how they can behave. Modern international society is composed of territorial units within which public institutions exercise exclusive authority. Actions follow particular patterns not because they are dictated by some higher authority, or coerced by the threat of force, or constrained by the power of other states, but because players have a shared intersubjective understanding. The role of sovereign states permits some kinds of activities but not others.

The sovereign state model is an excellent starting point for analysing (neorealism or neoliberal institutionalism) or understanding (international society perspectives) much of what goes on in the international environment. A great deal of what takes place is completely consistent with the sovereign state model, whether it is treated as an analytic assumption or behavioural regularity generated by intersubjective shared understanding: the claims of external actors are rebuffed; authoritative decision-makers declare war, form alliances, enter into trade agreements, and regulate migration.

As this article demonstrates, however, there have been many other situations in which the principles associated with mutual recognition and state autonomy has

[9] Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton, NJ: Princeton University Press, 1984) is the seminal exposition of this perspective.

[10] Hedley Bull, *The Anarchical Society* (London: Macmillan, 1977); John G. Ruggie, 'Territoriality and Beyond: Problematizing Modernity in International Relations', *International Organization*, 47 (1993), pp. 139–74; Alexander Wendt, *Social Theory of International Politics* (Cambridge: Cambridge University Press, 1999). J. Samuel Barkin and Bruce Cronin, 'The State and the Nation: Changing Norms and the Rules of Sovereignty in International Relations', *International Organization*, 48 (1994), pp. 107–30. See Barry Buzan, 'From International Realism to International Society: Structural Realism and Regime Theory Meet the English School', *International Organization*, 47 (1993), pp. 327–52, for a comparison of US and British approaches to international relations. For a recent debate on the English school, see the Forum in *Review of International Studies*, 27 (July 2001), pp. 465–509.

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been violated. Some are the result of an inability to control either transborder flows or domestic behaviour, leading rulers to conclude contractual arrangements that are consistent with international legal sovereignty, but which compromise domestic autonomy or establish new institutional arrangements that transcend territoriality. Some are the result of major powers imposing personnel, policies, or institutions on weaker states, a situation that violates both Vattelian and international legal sovereignty.

Violations of the principles of non-intervention and recognition based on territoriality and juridical autonomy have been an enduring characteristic of the international system, both before and after the Peace of Westphalia. The Westphalian sovereign state system, like other international systems, is characterized by competing norms, an absence of universal authority structures, and power asymmetries. For political leaders operating in an extremely complex environment and responsive to multiple constituencies, organized hypocrisy is irresistible.

Modalities of compromise

The principles of autonomy and recognition based on territoriality and juridical autonomy can be breached through conventions, contracts, coercion, or imposition. The four modalities through which autonomy and territoriality can be compromised are distinguished by whether they are pareto-improving or not, and contingent or not. Conventions and contracts are pareto-improving, that is, they make at least one party better off without making anyone worse off. Rulers are not forced into such arrangements. They enter them voluntarily because compromising the principles of the sovereign state model is more attractive than honouring them. Coercion and imposition leave at least one of the actors worse off; they are not pareto-improving. Contracts and coercion involve contingent behaviour; the actions of one ruler depend upon what the other does. Conventions and imposition do not involve contingent behaviour.

Conventions

Conventions are agreements in which rulers make commitments that expose their own policies to some kind of external scrutiny by agreeing to follow certain domestic practices.[11] Signatories might, for instance, endorse liberal conceptions of human rights, or agree to hold regular elections, or stipulate that religious or ethnic identity would not affect the franchise or opportunities for employment, or that refugees would be entitled to specific social security benefits and educational opportunities.

Conventions are voluntary and they make at least one actor better off without making any worse off. If they did not, rulers would not sign them. The signatories do not usually secure any direct gain except the pledge from other parties to the

[11] I am indebted to James McCall Smith for suggesting the term conventions.

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agreement that they will behave in the same way. The willingness of a particular state to abide by a convention is not contingent on the behaviour of others. Some rulers can violate a convention without prompting any change in the domestic policies or institutions of others.

In the contemporary world, the most obvious class of conventions is human rights accords. Human rights agreements cover relations between rulers and ruled, including both citizens and non-citizens. They involve pledges by national authorities to treat individuals within their territory in a certain way. By the last decade of the twentieth century there were around 50 such agreements, both universal and regional.[12]

These conventions cover a wide range of issues including genocide, torture, slavery, refugees, stateless persons, women's rights, racial discrimination, children's rights, forced labour, and the right of labour to organize. In some instances, human rights agreements specify only relatively broad principles, but in others they are very precise. For instance, the 1953 Convention on the Political Rights of Women, which has been ratified by more than 100 countries, provides for equal voting rights for women and equal rights to hold office. The 1979 Convention on the Elimination of all Forms of Discrimination Against Women, which has been ratified by more than 120 states, obligates parties to take all legal measures necessary to assure the equality of men and women, to 'modify the social and cultural patterns of conduct of men and women', to provide equal access to education, to take measures to assure 'the same opportunities to participate actively in sports and physical education', to assure equal work opportunities including promotion and job security, to introduce paid maternity leave, and to offer adequate prenatal and postnatal care including 'free services where necessary'.[13]

The enforcement and monitoring mechanisms for these agreements vary enormously. Some, such as the Universal Declaration of Human Rights, do not have the status of a formal treaty and are devoid of monitoring provisions. Other conventions (for example those on slavery, the status of refugees, and political rights of women) provide that disputes can be referred to the International Court of Justice. No human rights cases have, however, been referred to this Court. A number of conventions (such as those on racial discrimination, apartheid, and the rights of the child) provide for the creation of committees that receive information and can, with the approval of the concerned states, investigate alleged violations.

The European Convention on Human Rights, which entered into force in 1953, and subsequent protocols, offers, along with other European institutions, the most far-reaching example of infringements on Vattelian sovereignty. The European human rights regime has elaborate monitoring and enforcement procedures. The European Commission on Human Rights can receive complaints from individuals, nongovernmental organizations (NGOs), and states; it receives about 4,000 communications a year. The European Court of Human Rights can make decisions that are binding on national jurisdictions. The jurisdiction of the Commission

[12] United Nations, *Human Rights: International Instruments: Chart of Ratifications as of 31 December 1993,* ST/HR/4/Rev.9 (New York, 1994); Ian Brownlie, *Basic Documents on Human Rights*, 3rd edn. (Oxford: Clarendon Press, 1992).

[13] Convention on the Elimination of all Forms of Discrimination Against Women, in Brownlie, *Basic Documents*, pp. 106–8, Art 5a.; Art. 10f; Art. 13.2.

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(composed of independent experts) and of the Court have been recognized by the signatories to the Convention. Decisions of the Commission and the Court have led to changes in detention practices in Belgium and Germany, alien law in Switzerland, and trial procedures in Sweden. Greece, confronted with expulsion, withdrew from the Council of Europe after an investigation by the European Human Rights Commission found that the military regime had violated human rights.[14]

There is no single explanation for why countries sign conventions. The European Convention, with its significant enforcement and monitoring capabilities, could be concluded and strengthened over time because the signatories were committed to the principles and rules specified in the agreement. States in which democratic commitments had been shaky, most importantly Germany, were the strongest supporters of the agreement.[15]

Conventions with no monitoring or enforcement provisions, such as the Universal Declaration of Human Rights, or with only limited provisions for national reporting, have been signed even by countries with abysmal human rights records. When enforcement and monitoring mechanisms are weak, and where there is, in fact, limited domestic support for human rights, signing may have no consequences for states engaging in repressive domestic policies. Such situations would be consistent with the sovereign state model. The Soviet bloc countries routinely ratified human rights agreements. As of 1 September 1987, the Soviet Union, Bulgaria, Czechoslovakia, and Romania had all ratified 14 out of the 22 extant UN human rights instruments, East Germany 16, and Poland 13. For the industrialized democratic countries there was wide variation. The United States had ratified six conventions, Switzerland eight, Italy and the United Kingdom 15 each, France and West Germany 16 each, Sweden 18, and Norway 18.[16]

Why would rulers bother to join agreements with no intention of honouring them, even if monitoring and enforcement provisions are weak? The policies of the Soviet bloc could be written off as either pure cynicism or an effort to convince third parties. States may also sign because participation is understood as something that a modern state does. For many Third World states, clues to appropriate behaviour are signalled by the international environment, especially international organizations and more powerful states.[17]

[14] Jack Donnelly, *International Human Rights* (Boulder, CO: Westview, 1992), pp. 82–3; David P. Forsythe, *Human Rights and World Politics* (Lincoln: University of Nebraska Press, 1989), p. 19; Andrew Moravcsik, 'Lessons from the European Human Rights Regime', in Inter-American Dialogue, *Advancing Democracy and Human Rights in the Americas: What Role for the OAS?* (Washington, DC: Inter-American Dialogue, 1994), p. 47.

[15] Andrew Moravcsik, 'The Origins of Human Rights Regimes: Democratic Delegation in Postwar Europe', *International Organization*, 54 (2000), p. 217. Moravcsik, 'Lessons', pp. 54–5.

[16] Derived from information in United Nations, *Human Rights Status of International Instruments as at 1 September 1987*, n.d.

[17] John Meyer and others have argued that many of the formal stances of rulers (not necessarily their actual behaviour) are dictated not by internal characteristics, such as the level of socioeconomic development, but rather by expectations that are generated in the international system. See J.W. Meyer, *et al.*, 'World Society and the Nation-State'. For example, states create science agencies, even if they have no scientists. See Martha Finnemore, 'International Organizations as Teachers of Norms: The United Nations Educational, Scientific, and Cultural Organization and Science Policy', *International Organization*, 47 (1993).

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Contracts

A contract is an agreement between the legitimate authorities in two or more states or state authorities and another international actor, such as an international financial institution, that is mutually acceptable, pareto-improving, and contingent. A contract can violate the sovereign state model if it subjects domestic institutions and personnel to external influence, or creates institutional arrangements that transcend national boundaries. Obviously, many contracts between states do not transgress the sovereign state model. An international agreement that obligates a state only to change some specific aspect of its foreign policy would not be a violation of autonomy, nor would a treaty that involved only a change in domestic policy but had no other consequences.

Rulers must believe that a contract makes them better off. Otherwise they would not enter into it in the first place, since the *status quo* remains available unless more powerful states can change the 'best alternative to no agreement' (BATNA) in ways that make the target state worse off than in the *status quo ante*, but better off if its leaders sign a new agreement than if they do not.[18] The behaviour of one of the actors is contingent on the behaviour of the others. In contractual arrangements, rulers would not compromise the autonomy of their state unless the behaviour of others also changed: if one actor abrogates the contract the other would prefer to do so as well.

Historically, sovereign lending, especially to weaker states, has frequently involved contractual arrangements that compromise the autonomy of the borrower. Borrowers have not simply agreed to repay their obligations, an arrangement that would have no impact on autonomy. Rather they have agreed to dedicate specific revenues, or to accept oversight of domestic policies, or to permit revenues to be collected by foreign entities, or to change their domestic institutional structures.

Sovereign lending poses unique problems. In lending between private parties, it is possible to appeal to a court system if the borrower fails to repay; lenders can also seek collateral that can be seized if the borrower defaults. However, loans to sovereigns preclude review by any authoritative judicial system and collateral is hard to come by. Withholding future funds may be the only sanction available to lenders. There have been many defaults.[19]

One approach is to charge high interest rates to compensate for the risks inherent in extending credit to sovereigns, but not to compromise the domestic autonomy of the borrower. This was the typical practice during the Renaissance: private inter-

[18] Lloyd Gruber has called this 'go it alone' power. See Lloyd Gruber, *Ruling the World: Power Politics and the Rise of Supranational Institutions* (Princeton, NJ: Princeton University Press, 2000), pp. 7–12.

[19] For a review of defaults in the nineteenth and twentieth centuries, see Peter H. Lindert and Peter J. Morton, 'How Sovereign Lending Has Worked', in Jeffrey D. Sachs (ed.), *Developing Country Debt and Economic Performance* (Chicago, IL: University of Chicago Press, 1989), pp. 41–3. For a review of experiences in Latin America, see Carlos Marichal, *A Century of Debt Crises in Latin America: From Independence to the Great Depression 1820–1930* (Princeton, NJ: Princeton University Press, 1989). Lending to the sovereign can also be a problem domestically, not just internationally. Efficient domestic financial institutions required the creation of an institutional structure that provided lenders with the confidence that they would be repaid if they lent money to their own sovereigns. See Douglass North and Barry Weingast, 'Constitution and Commitment: The Evolution of Institutions Governing Public Choice in Seventeenth Century England', *Journal of Economic History*, 49: 4 (September 1989), pp. 803–33.

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national bankers did charge high interest rates, and sovereigns did default. This regime for sovereign lending was, paradoxically, more consistent with the sovereign state model than more recent practices, because it did not involve violations of Vattelian sovereignty.[20]

High interest rates and frequent defaults, however, may not be the best solution for either borrowers or lenders. Sovereign borrowers would prefer lower interest rates, but they can only secure such terms if they can in some way tie their own hands, that is, limit their discretion so that potential providers of capital have more confidence of being repaid. One strategy is for borrowers to violate their own domestic autonomy by giving lenders some authority over fiscal, and sometimes other, activities within their own borders. International sovereign lending in the nineteenth and twentieth centuries, especially to weaker states, has been characterized by contracts in which borrowers secure funds by reassuring lenders that obligations will be honoured because Vattelian sovereignty is violated: lenders part with their funds at lower interest rates because they are given some control over the domestic activities and institutional arrangements of the borrower.

During the nineteenth century, contractual arrangements involving sovereign loans frequently violated autonomy, sometimes in the initial contract, more frequently *ex post* if the sovereign threatened to default. Greece, the first state to become independent from the Ottoman Empire, offers examples of several contractual arrangements that involved compromising autonomy to secure foreign funds. When Greece was recognized as an independent state in 1832, it received a 60 m franc loan from Britain, France, and Russia, but only by signing an agreement pledging that the 'actual receipts of the Greek treasury shall be devoted, first of all, to the payment of the said interest and sinking fund, and shall not be employed for any other purpose, until those payments on account of the installments of the loan raised under the guarantee of the three Courts, shall have been completely secured for the current year'.[21] In 1838 the entire finances of Greece were placed under a French administrator.[22]

Greece could not secure new loans during the middle of the nineteenth century in part because it was in default on its 1832 obligations. After 1878 its borrowing increased substantially, but to secure these funds Greece committed specific revenues, including the customs at Athens, Piraeus, Patras, and Zante and the revenues from the state monopolies on salt, petroleum, matches, playing cards, and cigarette paper. The loan of 1887 gave the lenders the right to organize a company that would supervise the revenues that were assigned for the loan.[23]

In 1897, after a disastrous war with Turkey over Crete, Greece's finances collapsed. It was unable to service its foreign debt or to pay the war indemnity that was demanded by Turkey. Germany and France, along with private debtors, pressed for

[20] Garrett Mattingly, *Renaissance Diplomacy* (Boston, MA: Houghton-Mifflin, 1955), p. 59; Edward W. Fox, *History in Geographic Perspective: The Other France* (New York: Norton, 1971), pp. 60–1; Benjamin J. Cohen, *In Whose Interest? International Banking and American Foreign Policy* (New Haven, CT.: Yale University Press, 1986), pp. 84–90.

[21] Quoted in John A. Levandis, *The Greek Foreign Debt and the Great Powers, 1821–1898* (New York: Columbia University Press, 1944), p. 36.

[22] Charles Jelavich and Barbara Jelavich, *The Establishment of the Balkan National States* (Seattle, WA: University of Washington Press, 1977), p. 75.

[23] Levandis, *The Greek Foreign Debt*, p. 67.

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an international commission of control. Greece acceded when it became clear that this was the only way to secure new funding, and Britain, which had been more sympathetic to preserving Greek autonomy, then accepted the Control Commission. The Commission, which consisted of one representative appointed by each major power, had absolute control over the sources of revenue needed to fund the war indemnity and foreign debt. The Commission chose the revenue sources that it would control. They included state monopolies on salt, petroleum, matches, playing cards, cigarette paper, tobacco duties, and the customs-revenues of Piraeus. Disputes that might arise between the Commission and agencies of the Greek government were to be settled by binding arbitration. The members of the Commission were given the same standing as diplomats. One member of the Greek parliament argued that the establishment of the Control Commission suspended the independence of Greece.[24]

Greece's experience with foreign lending is not unique. During the nineteenth century, the domestic autonomy of all of the successor states to the Ottoman Empire as well as many Latin American countries was compromised through contractual arrangements involving international loans. When countries went into default, lenders set up control committees to oversee restructuring of the government's finances and other activities. Such committees were established for Bulgaria, Greece, Serbia, the Ottoman Empire, and Argentina.[25] Confronted with imminent default, the Ottoman Empire agreed in 1881 to put some of its revenues under the control of creditors. These included the salt and tobacco monopolies; stamp, spirit, and fishing taxes; and the annual tribute from Bulgaria (which was never paid). A separate administration controlled by the bondholders was created to collect revenues. By 1912 it had over eight thousand employees.[26]

In return for a loan consolidation in 1895, Serbia created a monopolies commission that was charged with overseeing the revenue from the state monopolies on tobacco, salt, and petroleum; liquor taxes; some stamp taxes; and some railway and customs revenues. Revenues from these monopolies were committed to paying off foreign loans and did not flow into the Serbian treasury. The Monopolies Commission was composed of four Serbians and one German and one French representative of foreign bondholders.[27]

Since World War II, contractual arrangements that violate autonomy have become routine for international financial institutions (IFIs). The conditionality requirements of these organizations can violate Vattelian sovereignty, although they are consistent with international legal sovereignty. IFI conditionality can specify changes in domestic policy, modify domestic conceptions of legitimate practices, and influence institutional structures.

Conditionality was not part of the Bretton Woods agreements. During the negotiations that created the International Monetary Fund and the World Bank, the

[24] Ibid., pp. 97–112.
[25] Cohen, *In Whose Interest?*, p. 103.
[26] Herbert Feis, Europe, *The World's Banker 1870–1914: An Account of European Foreign Investment and the Connection of World Finance with Diplomacy Before World War I* (New York: W.W. Norton, 1965), pp. 332–4; Donald C. Blaisdell, *European Financial Control in the Ottoman Empire: A Study of the Establishment, Activities, and Significance of the Administration of the Ottoman Public Debt* (New York: Columbia University Press, 1929).
[27] Feis, *The World's Banker*, pp. 266–8.

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European representatives successfully resisted US efforts to give the new institutions significant supervisory powers. Potential debtor countries, the Europeans, wanted to defend their autonomy, whereas the major world creditor, the United States, was perfectly willing to violate the sovereign state model. The United States, however, had the money and ultimately the United States prevailed. In 1950, conditionality was accepted in principle by the executive directors of the IMF because it was the only way to induce US policymakers, who had blocked virtually all activities for several years, to allow operations to resume. Conditionality formally became part of the IMF Articles of Agreement by amendment in 1969.[28]

The conditions attached to IMF lending have covered a wide range of domestic activities including aggregate credit expansion; subsidies for state-owned enterprises; the number of government employees; the indexation of salaries; subsidies on food, petroleum, and fertilizers; government investment; personal, payroll, and corporate taxes; excise taxes on beer and cigarettes; and energy prices; they have also touched on issues that are explicitly concerned with international transactions including exchange rate and trade policies. Structural adjustment programmes introduced by the World Bank in the 1970s involved general economic reforms, such as changing taxes, tariffs, subsidies, and interest rates; budgetary reforms; and institution building, rather than just funding specific projects like roads or dams. International financial institutions have tried to alter domestic institutional structures, not just policies. They have supported particular actors and agencies in borrowing countries. They have placed their own personnel in key bureaux.[29] At their annual meeting in 1996 the president of the World Bank and the managing director of the International Monetary Fund committed themselves to a more aggressive attack on corruption in Third World states. The Bank official co-ordinating these new policies stated that 'You will see us giving a much higher profile to governance and corruption concerns in a selective way, delaying disbursements until we are satisfied, or suspending it altogether'.[30] In 1997 the theme of the World Bank's *World Development Report* was the state and the report was sub-titled *The State in a Changing World*. The report stated that the 'clamor for greater government effectiveness has reached crisis proportions in many developing countries where the state has failed to deliver even such fundamental public goods as property rights, roads, and basic health and education'.[31] It describes the situation in Sub-Saharan Africa as one in which there is an urgent priority to 'rebuild state effectiveness through an overhaul of public institutions, reasserting the rule of law, and credible checks on abuse of state power'.[32] These very same governments are, of course, some of the Bank's major clients. The reports goes on to specify fundamental tasks for the state

[28] Sidney Dell, *On Being Grandmotherly: The Evolution of IMF Conditionality*, Essays in International Finance no. 144 (Princeton, NJ: International Finance Section, Department of Economics, Princeton University, October 1981), pp. 8–10; Robin Broad, *Unequal Alliance: The World Bank, The International Monetary Fund, and the Philippines* (Berkeley, CA: University of California Press, 1988), pp. 24–25.

[29] International Monetary Fund, Fiscal Affairs Department, *Fund-Supported Programs, Fiscal Policy, and Income Distribution*, Occasional Paper no. 46 (Washington, DC: International Monetary Fund, 1986), p. 40, and Table 12. Broad, *Unequal Alliance*, pp. 51–3.

[30] *New York Times* 11 August, 1997; 31 July 1998.

[31] World Bank, *World Development Report, 1997 The State in a Changing World* (Washington: World Bank, 1997), p. 2.

[32] World Bank , *The State*, p. 14.

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including establishing a foundation of law, protecting the environment, and shielding the vulnerable, to chastise governments for spending too much on rich and middle class students in universities while neglecting primary education, and to admonish them to manage ethnic and social differences.[33] Executives are urged to limited their discretionary authority in order to contain opportunities for corruption.[34] Finally, and most ambitiously, the European Bank for Reconstruction and Development is the first IFI to explicitly include political conditionality. The first paragraph of the *Agreement Establishing the European Bank for Reconstruction and Development* states that contracting parties should be 'Committed to the fundamental principles of multiparty democracy, the rule of law, respect for human rights and market economics'.[35]

In sum, sovereign lending has, since the nineteenth century, been characterized by contractual arrangements that have compromised the domestic autonomy of borrowers. The motivations of lenders have varied. In the nineteenth century lenders frequently acted simply to enhance the probability that they would be repaid, although in both the Balkans and Latin America security considerations (balancing against other great powers) were also involved. In more recent years lenders have been concerned not simply with repayment but also with economic reform for humanitarian, ideological, or security reasons. Regardless of motivation, violations of the sovereign state model have been the norm for sovereign lending to weak states since the Napoleonic wars. Conditionality and Vattelian sovereignty, mutually contradictory principles, have operated alongside each other for two centuries. The greater saliency of conditionality, especially since the end of the Cold War, is consistent with the analysis offered here: in a world with mutually inconsistent norms, outcomes depend on power and interests, and the collapse of the Soviet Union has left the industrialized market economy countries freer to pursue more intrusive conditionality. Recent developments in international financial institutions are also, however, compatible with those who contend that the conventional sovereign state model is eroding. The evidence is inconclusive.

Coercion and imposition

Coercion and imposition exist along a continuum determined by the costs of refusal for the target state. Coercion occurs when rulers in one state threaten to impose sanctions unless their counterparts in another compromise their domestic autonomy. The target can acquiesce or resist. Imposition occurs when the rulers or would-be rulers of a target state have no choice; they are so weak that they must accept domestic structures, policies, or personnel preferred by more powerful actors or else be eliminated. When applied against already established states, coercion and imposition are violations of international legal as well as the Vattelian sovereignty. When applied against the would-be rulers of not yet created states, coercion and

[33] Ibid., p. 4.
[34] Ibid., p. 8.
[35] *Agreement Establishing the European Bank for Reconstruction and Development*, Paris, 1990.

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imposition are violations of the sovereign state model because the autonomy of any state that does emerge has been constrained by external actors, but are not violations of international legal sovereignty, which only applies once a state has secured international recognition allowing it to enter into agreements with other states.

Unlike either conventions or contracts, coercion and imposition leave at least one actor worse off. The *status quo ante*, which the target prefers, is eliminated as an option by the initiating actor. If one state successfully coerces or imposes on another changes in the latter's institutions, policies, or personnel, then the target is no longer a Vattelian sovereign: its policy is constrained not simply by the external power of other states, but also by the ability of others to change the nature of the target's internal politics. Political leaders in the target state are not free to consider all possible policies because some options are precluded by externally imposed domestic structures, policies, or personnel. Indeed the rulers themselves might simply be the quislings of the dominant state.

Coercion and imposition, unlike conventions and contracts, always involve power asymmetry. Imposition entails forcing the target to do something that it would not otherwise do. Physical force, or the threat thereof, matters. Coercion involves asymmetrical bargaining power in which the initiator can make a credible threat, or use 'go it alone' power to create a situation in which the target is better off signing than not, but worse off than in the *status quo ante*, which is no longer an available option. If an actor has 'go it alone' power then the BATNA (best alternative to no agreement) is not the *status quo*.[36]

Economic sanctions aimed at domestic institutions, policies, or personnel are an example of coercion. Out of the 106 specific cases of economic sanctions during the twentieth century presented by Hufbauer, Schott, and Elliot, seventeen involved efforts to protect human rights, and sixteen were attempts to change the character of the domestic regime of the target by either removing the ruler or changing the institutional structure. For example, the United Kingdom used economic pressure to try to remove the Bolshevik regime in the Soviet Union after World War I. The United States attempted to eliminate Juan Peron in Argentina during and after World War II. Collective sanctions against South Africa with the aim of ending apartheid were authorized by the United Nations from 1962 until 1994. The United Kingdom enacted sanctions against Uganda from 1972 to 1979 to force out Idi Amin. The European Community used economic pressure against Turkey in 1981–82 to encourage the restoration of democracy. Between 1970 and 1990 the United States imposed sanctions against more than a dozen countries for human rights violations.[37] In all of these cases the target, even if it did not comply with the sanctions, was worse off than it had been because it could not, at the same time, both avoid sanctions and maintain its *ex ante* policies. Either it suffered sanctions, at least for some period of time, or it had to change its policies.

Imposition is the logical extreme of coercion. It is a situation where the target is so weak that it has no choice but to accept the demands of the more powerful state. Force is the most obvious instrument of imposition. Great powers, however, have

[36] For an excellent discussion of bargaining power, although not imposition, see John S. Odell, *Negotiating the World Economy* (Ithaca, NY: Cornell University Press, 2000). For 'go it alone' power see Gruber, *Ruling the World*.

[37] Gary C. Hufbauer, Jeffrey J. Schott, and Kimberly A. Elliot, *Economic Sanctions Reconsidered: History and Current Policy*, 2nd edn. (Washington, DC: Institute for International Economics, 1990).

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been cautious about attempting to impose violations of the sovereign state model when such policies have been opposed by their major rivals. If the major powers pursue opposing policies then imposition is very unlikely, if not impossible, because even a weak target can get external support. Imposition has occurred when there has been either a condominium among the major powers or the acceptance of spheres of influence.

Examples of imposition within spheres of influence include the US military occupation of a number of Caribbean and Central American states. The United States has sent troops to Cuba, the Dominican Republic, Nicaragua, Haiti (nine times), Panama, and Grenada in response to civil unrest, loan defaults, or threats of foreign intervention and has imposed constitutions, customs receiverships, and judicial control. South Africa used military pressure to secure compliant regimes in Lesotho both before and after the end of apartheid. During the Cold War, the Soviet Union dictated the domestic institutional structure and the policies of its east European satellites: Poland, Hungary, Romania, Czechoslovakia, and Bulgaria did not have Vattelian sovereignty even though they did have international legal sovereignty. For a time Poland's minister of defence was a marshal in the Soviet army. The militaries of the eastern European states were penetrated by the Soviet military and by their own communist parties, which were themselves penetrated by the Communist Party of the Soviet Union.[38] The foreign policy of Poland in 1958, or Cuba in 1908, could hardly be analysed from any perspective that used the sovereign state model as a starting point.

One of the more enduring examples of coercion and sometimes imposition under great power condominium has involved efforts to secure minority rights in eastern and central Europe. All of the states that emerged from the Ottoman and Habsburg empires were compelled to accept provisions for minority protection as a condition of international recognition. In 1832, the British, French, and Russians imposed on Greece its constitutional structure (monarchy), its monarch (Otto, the under-age second son of the King of Bavaria), and specific policies including protection for religious minorities. Greece had no bargaining leverage because its resources were so limited, not least because of dissension among the Greek revolutionaries themselves. In the Treaty of Berlin of 1878, the following language was applied to Montenegro, Serbia, and Bulgaria:

> The difference of religious creeds and confessions shall not be alleged against any person as a ground for exclusion or incapacity in matters relating to the enjoyment of civil and political rights, admission to public employments, functions, and honours, or the exercise of the various professions and industries in any locality whatsoever. The freedom and outward exercise of all forms of worship shall be assured to all persons belonging to [Montenegro, Serbia, and Bulgaria], as well as to foreigners, and no hindrance shall be offered either to the hierarchical organization of the different communions, or to their relations with their spiritual chiefs.[39]

[38] Condoleezza Rice, *The Soviet Union and the Czechoslovak Army* (Princeton, NJ: Princeton University Press, 1984), ch. 1; Christopher D. Jones, 'National Armies and National Sovereignty', in *The Warsaw Pact: Alliance in Transition?* Edited by David Holloway and Jane M.O. Sharp (Ithaca, NY: Cornell University Press, 1984).

[39] Treaty of Berlin, 13 July, 1878, in Fred L. Israel (ed.), *Major Peace Treaties of Modern History, 1648–1967*, vol. I (New York: McGraw-Hill, 1967), Articles V, XXVII, XLIV. See also Jelavich and Jelavich, *Balkan National States*, pp. 50–2, 68–72, 156; and A.C. Macartney, *National States and National Minorities* (London: Oxford University Press, 1934), pp. 166, 168.

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The Treaty also included provisions for the protection of minority rights in Romania and in the Ottoman Empire itself.[40]

The 1878 Berlin Treaty settlements were examples of coercion rather than imposition. The would-be rulers of the target states did not want to grant minority rights, and they did have some leverage. Their first-best outcome would have been recognition and no constraints on their domestic autonomy. They acquiesced, however, to European demands because international recognition with minority rights provisions, which might be evaded, was better than no recognition at all.

The would-be leaders of all of the states that were created after World War I (or were successors to the defeated empires) had to accept extensive provisions for the protection of minorities. As in Greece in 1832, these would-be rulers had limited bargaining leverage. Austria, Hungary, Bulgaria, and Turkey were defeated states, and minority protections were written into their peace treaties. Poland, Czechoslovakia, Yugoslavia, Romania, and Greece were new or enlarged states. They signed minority rights treaties with the Allied and Associated Powers. Albania, Lithuania, Latvia, Estonia, and Iraq made declarations as a result of pressure from the victorious powers when they applied to join the League of Nations.[41]

The protections accorded to minorities were detailed and extensive. The Polish Minority Treaty, for instance, provided that 'Poland undertakes to assure full and complete protection of life and liberty to all inhabitants of Poland without distinction of birth, nationality, language, race or religion'. Religious differences were not to affect public or professional employment. Where there were a considerable number of non-Polish speakers, they would be educated in their own language in primary school, although the state could mandate the teaching of Polish. Jews would not be obligated to perform any act that violated the Jewish Sabbath and therefore elections would not be held on Saturday.[42] The Treaty was made part of the fundamental law of Poland.

With the exception of Hungary, which wanted protection for the many Hungarians in neighbouring countries, and Czechoslovakia, which wanted to reassure its large German minority, the minorities rights treaties of Versailles are examples of imposition.[43] For the rulers or would-be rulers of these states, the *status quo* was non-existence. They would not have states to rule unless they accepted the conditions imposed by the victors in World War I. They lacked material, military, and diplomatic resources to bargain or resist.

The Balkan crises of the 1990s evoked a response from the major powers reminiscent of nineteenth century efforts to establish stability. Minority rights were explicitly included in the conditions for European Community recognition of the successor states of Yugoslavia. On 16 December, 1991, the foreign ministers of the European Community made acceptance of the Carrington Plan, formally the Treaty Provisions

[40] Treaty of Berlin, Articles LXIV and LXII.

[41] Inis L. Claude, Jr., *National Minorities: An International Problem* (Cambridge, MA: Harvard University Press, 1955), p. 16; and Dorothy V. Jones, *Code of Peace: Ethics and Security in the World of the Warlord States* (Chicago, IL: University of Chicago Press, 1991), p. 45.

[42] Polish Minorities Treaty, Articles 2, 7, 8; and 11. The text of the Treaty is reprinted in Macartney, *Minorities*, pp. 502–6.

[43] For discussions of attitudes toward the minority treaties in different states see Sebastian Bartsch, *Minderheitenschutz in der internationalen Politik : Völkerbund und KSZE/OSZE in neuer Perspektive* (Oplanden, Germany: Westdeutscher Verlag, 1995).

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for the Convention (with the former republics of Yugoslavia), the prerequisite for recognition. Chapter 2 of the Carrington Plan stipulated that the Republics would guarantee the right to life, to be free of torture, to liberty, to public hearings by an impartial tribunal, to freedom of thought, to peaceful assembly, and to marry and form a family. These rights were to apply to all regardless of sex, race, colour, language, religion, or minority status. The Republics were to respect the rights of national and ethnic minorities elaborated in conventions adopted by the United Nations and the CSCE, including the then proposed United Nations Declaration on the Rights of Persons belonging to National or Ethnic, Religious, and Linguistic Minorities, and the proposed Convention for the Protection of Minorities of the European Commission. The republics were to protect the cultural rights of minorities, guarantee equal participation in public affairs, and assure that each individual could choose his or her ethnic identity. Members of minority groups were to be given the right to participate in the 'government of the Republics concerning their affairs'.[44] In local areas where members of a minority formed a majority of the population they were to be given special status including a national emblem, an educational system 'which respects the values and needs of that group',[45] a legislative body, a regional police force, and a judiciary that reflects the composition of the population. Such special areas were to be permanently demilitarized unless they were on an international border. The rights established in the convention were to be assured through national legislation.[46]

The implications that can be drawn from the data presented thus far about the empirical validity of the sovereign state model are modest because I have selected on the dependent variable. Nevertheless, several inferences are reasonable. The sovereign state model has never been taken for granted; rulers have explored institutional alternatives. In some areas of the world, notably central and eastern Europe, there have never been any smaller states that enjoyed full Vattelian sovereignty. Many developing countries that have signed stand-by agreements with international financial institutions have had to agree to changes and ongoing supervision of their domestic institutions and policies. In one way or another—as a result of conventions, contracts, coercion, or imposition—most of the states in the contemporary international system do not fully conform with the sovereign state model.

Peace settlements

The major peace settlements from Westphalia to the present offer another body of data, one not selected on the dependent variable, with which to examine the actual functioning, or lack thereof, of the sovereign state model. Major peace treaties embody the shared understanding of rulers, or at least the deals that they have found mutually acceptable. All of the major treaties, beginning with the Peace of

[44] European Community, Treaty Provisions for the Convention (with the former republics of Yugoslavia) 1991, ch. 2. 4.
[45] European Community, Treaty Provisions for the Convention, ch. 2.5c.
[46] Beverley Crawford, 'Explaining Defection from International Cooperation: Germany's Unilateral Recognition of Croatia', *World Politics*, 48 (1996), p. 497.

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Westphalia in 1648, have included violations of the 'Westphalian' model, specifically the principle of autonomy. Infractions against the sovereign state model, whether in the form of conventions, contracts, coercion, or imposition, have been justified by alternative principles that are inconsistent with autonomy, such as human rights, minority rights, fiscal responsibility, domestic stability, or external balance.

The Peace of Westphalia of 1648 (comprising the two separate treaties of Münster and Osnabrück), has generally been understood as a critical event in the development of the modern sovereign state system characterized by juridically independent, territorial, and autonomous political entities. In a widely cited article published in 1948 Leo Gross argued that to the Peace of Westphalia is 'traditionally attributed the importance and dignity of being the first of several attempts to establish something resembling world unity on the basis of states exercising untrammeled sovereignty over certain territories and subordinated to no earthly authority'.[47] For Gross the central importance of Westphalia is that it established an international system based on the equality of states whether Catholic or Protestant, republican or monarchical, and undermined the hierarchy of the medieval world. More recently Daniel Philpott has affirmed the central importance of Westphalia, arguing that 'in the wake of Westphalia states became the chief form of polity in Europe' and that 'following Westphalia, states became virtually uninhibited in their internal authority'.[48]

The treaties concluded at Westphalia do not provide much evidence for the assertion that the Peace itself was any kind of decisive transition point. The Peace brought to an end the Thirty Years War which had devastated the centre of Europe, especially the Germanic lands. It was a complicated document with provisions about various dynastic claims, division of territory, the practice of religion, and the constitution of the Holy Roman Empire. The Treaty of Osnabrück was concluded between the Habsburg monarch who was the Holy Roman Emperor and the Protestant ruler of Sweden; the Treaty of Münster was concluded between the Emperor and the Catholic king of France. In many ways it is easier to regard the peace as a new constitution for the Holy Roman Empire than to see it as a confirmation of what came to be termed the Westphalian system.[49]

The specific issue at Westphalia was how the Empire, which had lost the war, would satisfy France and Sweden which had won.[50] The more general problem was to find some way of dealing with the religious disorders that were tearing Europe apart and threatening to undermine regime stability across the continent. The Thirty

[47] Leo Gross, 'The Peace of Westphalia 1648–1948', *American Journal of International Law*, 42 (1948), p. 20.

[48] Daniel Philpott, 'The Religious Roots of Modern International Relations', *World Politics*, 52 (2000), pp. 211 and 212.

[49] For a excellent critiques of the Westphalian myth see Andreas Osiander, 'Sovereignty, International Relations, and the Westphalian Myth', *International Organization*, 55 (2001), pp. 251–87; Stéphane Beaulac, 'The Westphalian Legal Orthodoxy—Myth or Reality', *Journal of the History of International Law*, 2 (2000), pp 148–77; John G. Gagliardo, *Reich and Nation, The Holy Roman Empire as Idea and Reality, 1763–1806* (Bloomington, IN: University of Indiana Press, 1980), pp. 44–6, and Derek Croxton, 'The Peace of Westphalia of 1648 and the Origins of Sovereignty', *The International History Review*, 21 (1999). Croxton is particularly compelling in demonstrating that the individuals involved in the Westphalian negotiations did not hold modern conceptualizations of sovereignty. See especially pp. 579–89.

[50] A. W. Ward, 'The Peace of Westphalia', in *The Cambridge Modern History*, vol IV: *The Thirty Years War* (Cambridge: Cambridge University Press, 1907), pp. 400–5.

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Years War, fuelled in part by religious antipathies, resulted in more than two million battle deaths, a larger carnage than any conflict except for the First and Second World Wars.[51] It had been preceded by the religious wars in France during the latter part of the sixteenth century. The Civil Wars in England rent the English monarchy through the middle part of the seventeenth century.

The Peace imposed a territorial settlement that was advantageous to the victors, France and Sweden. France was granted control over the bishoprics of Metz, Toul, and Verdun which had been under *de facto* French control for a century. Alsace was granted to France by Austria, even though the Austrian claim to Alsace was questionable. One provision of the treaty states that the ancient privileges which these local nobles had enjoyed with regard to the Empire should be retained with respect to France, but another provision of the treaty granted France 'all manner of Jurisdiction and Sovereignty'.[52]

Sweden's fundamental territorial objective, to secure a position on the southern shore of the Baltic, was satisfied in a completely medieval way. The King of Sweden received eastern Pomerania, the islands of Rugen, Usedom and Willin, the bishoprics of Bremen and Verden and the port of Weismar. These were granted to Sweden not in full sovereignty, but as fiefs of the Holy Roman Empire.[53] The rulers of Sweden were given a place in the Imperial Diet under the titles of the Dukes of Bremen, Verden, and Pomerania, the Princes of Rugen and the Lords of Wismar. The prerogatives of the ruler of Sweden were specified with regard to appeal to either of the imperial courts—the Aulic Court or the Imperial Chamber. Sweden was given the right to erect a university and to collect certain tolls. The Hanseatic towns in the areas ruled by Sweden were, however, to maintain their traditional rights of liberty and freedom of navigation.[54]

While rhetorically endorsing the Augsburg principle that the prince could set the religion of his subjects (*cuius regio, eius religio*), the actual provisions of the Peace constrained sovereign prerogatives in Germany in favour of some forms of religious toleration. Those Catholics who lived in Lutheran states or Lutherans who lived in Catholic states were given the right to practice in the privacy of their homes, and to educate their children at home or to send them to foreign schools. Five cities with mixed Lutheran and Catholic populations were to have freedom of religious practice for both groups. In four of these cities, offices were to be divided equally between Catholics and Lutherans. The Treaty of Osnabrück provided that Catholics and Lutherans should be equally represented in the assemblies of the Empire. Religious issues were to be decided by a consensus that included both Catholics and Protestants. Representatives to the imperial courts were also to include members of

[51] Charles Tilly, *Coercion, Capital and European States, AD 990–1990* (Cambridge, MA: Basil Blackwell, 1990), pp. 165–6.

[52] Treaty of Münster, reprinted in Fred Israel (ed.), *Major Peace Treaties* (New York: McGraw Hill, 1967), art. LXXVI, for quote, art. LXXI, art. LXXIV; Ward, 'Westphalia', pp. 404–6; E. A. Beller, 'The Thirty Years War', in *The New Cambridge Modern History*, vol. IV: *The Decline of Spain and the Thirty Years War 1609–1648/59*, edited by J.P. Cooper (Cambridge: Cambridge University Press, 1970), p. 353.

[53] Treaty of Osnabrück, reprinted in Clive Parry (ed.), *The Consolidated Treaty Series*, vol I: *1648–1649* (Dobbs Ferry, NY: Oceana, 1969), Article X, pp. 244ff; Ward, 'Westphalia', pp. 403–4; Beller, 'Thirty Years War', p. 354.

[54] Treaty of Osnabrück, art. X.4.

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both religions. If the judges divided along religious lines, then the case could be appealed to the Diet of the Holy Roman Empire, where a decision also required a consensus of Protestants (only Lutherans and Calvinists were included) and Catholics.[55]

The Peace of Westphalia also dealt with a number of issues related to the constitutional arrangements of the Empire. The Emperor was elected by a group of religious and secular nobles called the electors. The Peace increased the number of electors from seven to eight by restoring an Electorship to the Duke Palatine. The rights of succession for the ruling house of Bavaria were spelled out, including a provision that the Electoral seat held by Bavaria would disappear were there to be no male heir because Bavaria and the Palatinate would then be ruled by the same family.[56]

This effort to dictate the internal organizational arrangements of the Holy Roman Empire in an international treaty are hardly consistent with conventional notions of sovereignty. Westphalia did not abolish the Empire, which might have been consistent with a new world of sovereign states, nor did Westphalia treat the Empire as if it were a sovereign state with the right to determine its own constitutional structure. Instead, the treaties involved external actors, who guaranteed the provisions of the treaties, in the internal affairs of Germany.

For the conventional interpretation of the Peace of Westphalia, which underscores 1648 as a break with the past, the most important provisions of the Treaties are the ones that recognize the prerogatives of the princes within their own territory and give them the right to make alliances with other states. The established view is that this is a confirmation of a fundamental attribute of sovereignty, the right of every state to carry out its own foreign policy. With this right the principalities of the Holy Roman Empire could be understood as autonomous states rather than as parts of some larger corporate body. The section of the Treaty of Münster that recognizes the right to make treaties states that:

> Above all, it shall be free perpetually to each of the States of the Empire, to make Alliances with Strangers for their Preservation and Safety; provided, nevertheless, such Alliances be not against the Emperor, and the Empire, nor against the Publick Peace, and this Treaty, and without prejudice to the Oath by which every one is bound to the Emperor and the Empire.[57]

The Treaty of Münster is 42 pages long. It contains 128 provisions. The right to make treaties is given in one sentence in a section of the Treaty that spells out the rights of states within the Holy Roman Empire to participate in the deliberations of the Empire and which concludes with an admonition that no Treaty should be directed against the Emperor and the Empire. Only after the fact can this be read as an endorsement of the principle of sovereignty which rejects any external restraint on the way in which states might conduct their foreign policies.

Moreover, the treaty-making power recognized at Westphalia simply reaffirmed an already existing right. The more powerful German states had conducted inde-

[55] Treaty of Osnabrück, Articles V and VII.
[56] Treaty of Osnabrück, Article IV; Treaty of Münster, XIV.
[57] Treaty of Münster, Article LXV; a similar provision is found in the Treaty of Osnabrück, Article VIII.1.

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pendent foreign policies before the conclusion of the Peace. The Schmalkalden League formed by six Protestant princes and ten cities in 1531 was in continuous contact with Denmark, England and France. The Protestant princes signed a treaty of alliance with Henry II, the King of France, in 1552. Both the Palatinate and Brandenburg concluded alliances with the Dutch Republic around 1605. A new Protestant alliance, the Union, was formed in 1608. The Union made concrete agreements with England, France, and the Netherlands.[58]

The Peace of Westphalia did not affirm Vattelian sovereignty. The principalities of the Empire did not become autonomous states. The settlement of 1648 did, however, undermine the position of the Papacy and erode the already weakening notion of a Christendom. It reflected and promoted foreign policy based on the principle of balance of power. The balance of power, however, does not preclude efforts by powerful states to influence the domestic authority structures of weaker ones. In an anarchic system balancing may be internal or external, and external balancing can involve efforts to alter regime types or authority structures in other states, not just alliances. The Peace reflected the short term interests of the victorious powers, France and Sweden, rather than some overarching conceptualization of how the international system should be ordered. It used medieval structures and concepts, altering the electoral system of the empire, satisfying Sweden by awarding fiefdoms, as much as modern ones. The Peace of Westphalia was not Westphalian.

The Treaties of Münster and Osnabrück did not sanction the right of German princes to do whatever they pleased with regard to the practice of religion within their own territories. The Peace dictated a set of internal practices for much of the Holy Roman Empire. The Treaties were guaranteed by France and Sweden, providing legitimation for challenges to German autonomy. In the area of religion, the central political question of the seventeenth century, the Peace of Westphalia was less consistent with the sovereign state model than was the Peace of Augsburg, concluded almost a century earlier.[59]

The Peace of Westphalia is an example of contract. The Habsburg monarch did not want to sanction Protestantism. He refused to accept toleration in the areas that he ruled directly but that were outside the Holy Roman Empire. Ending the Thirty Years War with provisions for religious toleration was, however, preferable to more fighting.

The Peace of Utrecht was signed in 1713. It brought an end to war between France, the major power in Europe, and an alliance that included England, Holland, Sweden, the Austrian Habsburgs, the Holy Roman Empire, Savoy, and many German principalities. The war had been precipitated by Louis XIV's efforts to extend his control to Spain and even Austria. The Peace provided that Philip V, a Bourbon, would be recognized as the King of Spain, but only if the Bourbon family agreed that France and Spain would never be united under a single ruler. Utrecht was a contract between Britain and France in which, in exchange for peace and

[58] Geoffrey Parker, *The Thirty Years' War* (London: Routledge and Kegan Paul, 1984), p. 2. John G. Gagliardo, *Germany Under the Old Regime, 1600–1790* (London: Longman, 1991), pp. 23–25; Gagliardo, *Reich and Nation*, p. viii.

[59] Even the Peace of Augsburg provided for religious toleration in several German cities that had mixed Catholic and Lutheran populations. See Gagliardo, *Germany*, pp. 16–21.

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some territorial aggrandizement, Louis XIV accepted constraints on the domestic political arrangements and personnel that could govern France and Spain.[60]

One outcome of the peace settlements reached at the conclusion of the Napoleonic wars, although not the only one, was the creation of the Holy Alliance. The aim of the Holy Alliance, established by Prussia, Austria, and Russia, was to prevent the rise of republican governments. The members of the Alliance pledged to resist such developments domestically and to repress them internationally. A protocol signed at the Conference of Troppau in 1820 stated:

> States which have undergone a change of government due to revolution, the results of which threaten other states, ipso facto cease to be members of the European Alliance, and remain excluded from it until their situation gives guarantees for legal order and stability. If, owing to such alterations, immediate danger threatens other states, the parties bind themselves, by peaceful means, or if need be by arms, to bring back the guilty state into the bosom of the Great Alliance.[61]

The rulers of the powerful conservative states of Europe had no compunction about using coercion or imposition to violate the sovereign state model in the name of an alternative principle, the preservation of peace through the repression of republican governments, although the Holy Alliance had only limited success partly because of British resistance. Austria received international approval for the repression of republican governments in some German states and in Naples. At the Congress of Verona in 1822, France secured the support of Russia, Prussia, and Austria to intervene in support of the monarchy in Spain, which it did in 1823. The Alliance functioned until 1825, when it broke up over the question of whether to intervene to aid the rebellion in Greece.[62] The Holy Alliance was not only an instrument of coercion and imposition *vis-à-vis* potential republican governments, but also a convention among the signatories who committed themselves to maintain their own conservative regimes.

Provisions of the Treaty of Versailles and other agreements reached at the end of World War I were explicitly designed to alter the domestic political arrangements of the new states that emerged after the conflict. The treaties and the League of Nations embodied Wilsonian conceptions of the relationship among the rights of minorities, national self-determination, democracy, and international peace. Collective security could only work with democratic states. Democratic states had to respect national self-determination. National self-determination, however, could not resolve the problem of minorities. Therefore, the rights of minorities had to be

[60] Mark Trachtenberg, 'Intervention in Historical Perspective', in Laura W. Reed and Carl Kaysen (eds.), *Emerging Norms of Justified Intervention: A Collection of Essays from a Project of the American Academy of Arts and Sciences* (Cambridge, MA: American Academy of Arts and Sciences, 1993), p. 17; W.E. Lingelbach, 'The Doctrine and Practice of Intervention in Europe', *Annals of the American Academy of Political and Social Science*, 16 (1900), p. 5; Andreas Osiander, *The States System of Europe 1640–1990: Peacemaking and the Conditions of International Stability* (Oxford: Oxford University Press, 1994), pp. 123–33.

[61] Quoted in Thomas and. Thomas, Jr., *Non-Intervention*, p. 8.

[62] Goronwy J. Jones, *The United Nations and the Domestic Jurisdiction of States: Interpretations and Applications of the Non-Intervention Principle* (Cardiff: University of Wales Press, 1979), pp. 3–4; R.J. Vincent, *Nonintervention and International Order* (Princeton, NJ: Princeton University Press, 1974), pp. 77–79, 86–7; Stanley Hoffman, 'The Problem of Intervention', in Hedley Bull (ed.), *Intervention in World Politics* (Oxford: Clarendon Press, 1984), p. 12.

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protected so that they would accept and support the democratic polities within which they resided. The minorities treaties associated with the Versailles settlement violated the sovereign state model. They were imposed on the would-be rulers of new and powerless states, and were repudiated when it later became apparent that neither the Great Powers nor the League of Nations could or would enforce them. Symmetrical conditions concerning the treatment of minorities were never accepted by the victorious powers. There were no international agreements about the treatment of the Irish by the British government, or of Asians and blacks by federal or state authorities in the United States.[63]

There was no general peace settlement after World War II; rather, the United States and the Soviet Union coerced or contracted to encourage political regimes that were consonant with their own preferences. In 1975, however, the major powers did conclude the Final Act of the Helsinki Conference on Security and Cooperation in Europe (CSCE). The CSCE was a contract between the Soviets and the West in which the Soviets nominally accepted some human rights principles and the West recognized existing borders and regimes in Europe. The CSCE reflected the Soviet effort to secure legitimation of their dominance of eastern Europe, and the desire of the West to get the Soviets to accept some liberal precepts. Principle VI of the 'Declaration on Principles Guiding Relations between Participating States' endorsed non-intervention, while Principle VII endorsed human rights including freedom of thought, conscience, and religion. The West used the Helsinki accord to pressure the Soviet Union on human rights, rejecting the charge that this amounted to interference in internal affairs by claiming that human rights were universally recognized and that non-interference referred only to efforts to dictate to other countries.[64]

Most recently the Dayton Accords designed to establish a stable and tolerant political system for Bosnia included extensive violations of Vattelian sovereignty. Annex 6 committed the signatories—The Republic of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and the Republika Srpska—to honour the provisions of 15 international and European human rights accords. It provided for the creation of an Ombudsman for human rights who would have diplomatic immunity, would not be a citizen of any parts of the former Yugoslavia, and would initially be appointed to a five-year term by the Organization for Cooperation and Security in Europe; as well as a 14 member Chamber of Human Rights, four of whose members would be appointed by Bosnia and Herzegovina, two by the Republic of Srpska, and the other eight, none of whom would be citizens of the states that had been part of Yugoslavia, by the Committee of Ministers of the Council of Europe. Individuals could bring complaints to the Chamber whose decisions, taken by a majority vote, would be binding on the signatories. Non-governmental organizations and international organizations were to be invited to Bosnia to monitor the implementation of the terms of the Annex. After five years the Chamber and the office of the Ombudsman would pass to the control of Bosnia and Herzegovina, if all of the parties agreed. The goal of the Dayton accords was to make Bosnia a conventional state that would conform with the sovereign state model, but the leaders of the major powers believed that they could only accomplish

[63] Jones, Code of Peace, p. 45.
[64] R. J. Vincent, *Human Rights and International Relations* (Cambridge: Cambridge University Press, 1986), pp. 66–70.

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this goal by compromising Bosnia's Vattelian sovereignty at least in the short and medium term.[65] Hardly a new story for the Balkans.

Hence, every major peace settlement from Westphalia to Dayton has involved violations of the sovereign state model. At Utrecht and Helsinki, rulers entered into contracts that compromised, either immediately or potentially, the domestic autonomy of some states. In the Holy Alliance and at Versailles and Dayton, rulers in the most powerful states imposed their preferences regarding specific domestic policies and sometimes even constitutional structures. There was always some competing principle—the need for religious peace at Westphalia, for balance of power at Utrecht, for international peace at Vienna and Versailles (assumed to emerge from completely different kinds of domestic regimes), for stability at Helsinki and Dayton—that was invoked to justify compromising the sovereign state model.

Conclusions

The sovereign state model has persisted for a long period of time but its defining principles—non-intervention and mutual recognition of juridically independent territorial entities—have often been ignored. It has been both enduring and flimsy. The sovereign state model is not a stable equilibrium: actors have frequently had both the incentive and power to deviate from it. It is not a generative grammar, producing individual entities (states) that replicate and reinforce the general model: states have acted in ways that are inconsistent with the model either by voluntarily accepting constraints on their own autonomy or by imposing authority structures on others. The sovereign state model is not a set of constitutive rules the violation of which means that some other game is being played (as would be the case if a bishop were moved in a straight line in chess instead of along a diagonal): if a ruler agrees that domestic ethnic minorities will be given specific rights and that behaviour will be monitored by external actors, or that financial affairs will be managed by a committee appointed by foreign bondholders, he is not understood to have done something incomprehensible nor will he or others necessarily claim that his state is no longer sovereign. Whether or not a ruler's opponents chastize him for adopting policies inconsistent with Vattelian sovereignty will depend upon their assessment of the political benefits of invoking such norms.

Norms associated with the sovereign state model are a widely available cognitive script. They can be more easily invoked than historical structures that have become obsolescent, such as the tributary state model which has been mostly forgotten even in East Asia (although the Chinese treatment of Hong Kong can be seen as a manifestation of traditional Sinocentric practices), or institutional forms whose underlying principles have not been explicitly formulated and labelled, such as the European Union, for which contemporary observers are still seeking an appropriate

[65] United States, Department of State, *The Bosnia Agreement*, 1995. Susan L. Woodward, 'Compromised Sovereignty to Create Sovereignty: Is Dayton Bosnia a Futile Exercise or an Emerging Model?', in Stephen D. Krasner (ed.), *Problematic Sovereignty: Contested Rules and Political Possibilities* (New York: Columbia University Press, 2001).

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appellation (although European forms, including the insistence on political democracy not just economic openness, have been copied in other areas of the world such as the Mercosul agreement in South America). Given how complicated and multi-faceted most international environments are, political actors will try to maintain a repertoire of available normative options. No principle or norm will be taken for granted. Intellectual constructs will be debated over extended periods of time and only sometimes codified in unambiguous ways, and even then subject to challenge by potentially contradictory ideas. Political leaders must struggle with concrete problems that may, or may not, be best resolved by invoking the most widely available norms. How should Sweden's territorial ambitions be satisfied in 1648? How should a fifteenth century Chinese emperor, operating in a system in which he and only he is regarded as having the Mandate of Heaven, interact with powerful and rich Moslem rulers from central Asia whose own belief systems preclude acknowledging the emperor's supremacy? Given the Islamic division between the House of God and the House of Infidels, how should the Ottoman sultan treat his European counterparts as they became more powerful during the seventeenth century? How should national self determination and minority rights be resolved after the First World War? How can all attributes of the European Union including open labour markets be expanded to eastern Europe without undermining support for integration in western Europe? No single set of coherent principles, whether those of the sovereign state model, or the Sinocentric tributary system, or medieval Europe, or the Islamic world, will provide optimal outcomes for rulers in all of the situations which they confront in the international environment. Regardless of what cognitive scripts are most available, actions will be decoupled from norms.

Rather than being treated as a set of constitutive rules or as an analytic assumption, the sovereign state model is better understood as an example of organized hypocrisy. Political leaders are inevitably faced with situations in which the actions that they take and the norms that they have endorsed will not be mutually consistent. Organized hypocrisy is characteristic of international environments because: (1) actors, whether they be states, city states, empires, trading leagues, or tributary states have different levels of power; (2) rulers in different political entities will be responsive to different domestic norms which may, or may not, be fully compatible with international norms; (3) situations arise in which it is unclear what rule should apply, and there is no authority structure that can resolve these ambiguities. In any international system logics of consequences will dominate logics of appropriateness.

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