

## Democratic Transition Theory Meets the ‘English School’

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According to the canon of the ‘English School’ of international relations theory, international society took shape sometime between 1648 and 1713. Its defining characteristic is the appearance, and acceptance, of the centralized authority of the modern state, a state that would henceforth exist within an order of other similarly constituted states. This order is often represented in terms of what it was not. It was not a feudal regnum with a multiplicity of functionally distinct authorities. It was not a theocratic imperium where one power aimed at “the control and protection of Christendom.”<sup>2</sup> It was not even (despite some occasional flirtation with the analogy) a primitive tribe, held together by common culture and a common stock of gods. It was a society of sovereigns, of *de jure* equals, each of whom recognized the others’ right to exist, and whose common ideological quantum was low.

This moment, generally described as the “Westphalian moment” (after the Treaty of Westphalia that anticipated it), is also credited with bringing into being a new set of international institutions in its wake. According to the general consensus, diplomacy was reshaped into a new discourse among legal equals, a discourse whose logic was informed by a grammar of interests, understood in terms of *raison d’etat*. Alliances became more or less neutral mechanisms through which interests were articulated and pursued. The balance of power emerged as a factor limiting the violent overthrow of a plural state order, regard for which became “a duty upon governments,” quoting Fenelon’s *Telemaque* of 1690.<sup>3</sup> War was just or unjust, depending on whether it was directed toward the reasonable pursuit of interests (just) or toward the overthrow of the plural order as a whole (unjust). English School theorists often consider Napoleon and Hitler in terms of successive efforts to re-institute a super- or trans-state order, one that was inspired by one of several models from Europe’s pre-Westphalian, and pre-modern, past.

Moreover, the “system which then emerged or finally matured in Europe is the system which still holds the world in its framework. . . .”<sup>4</sup> What once was, still is, and any English School theorist worthy of the name will maintain that change has not altered the essential nature of the plural state system. The balance of power,

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<sup>2</sup> F. H. Hinsley, *Power and the Pursuit of Peace* (Cambridge: Cambridge University Press, 1967), 153.

<sup>3</sup> *Ibid.*, 160.

<sup>4</sup> *Ibid.*, 153.

even if it does offer up different challenges and different constellations of powers, still operates to maintain the plurality of states. Liberal imperialism (that more glaring contradiction to the plurality of states) was but a brief, paternalistic interlude, curtailed by the self-evident pattern of *pare inter pares* displayed by the imperial masters. New entrants into the system, however diverse, are socialized, or disciplined, towards accepting the fundamental Westphalian rules; and diplomacy, alliances, and wars have retained their Westphalian essences, whatever new characteristics they may have absorbed. In Rousseau's apt *mot*, there may be ceaseless movement, but there is no change.

According to Democratic Transition Theory (DTT), the opposite maintains. In DTT, we have a distinctive kind of state, the liberal state. It appeared on the scene increasingly from the 1860s. It is not sovereign in the Westphalian sense; rather, liberal authority is diffuse. Moreover, the liberal state produces its own distinctive international impulses that distance it in significant ways from the Westphalian pattern. Democratic states do not fight wars (at least not with one another), and they do not balance, they bandwagon. Their main impulses are cooperation and institution building. Moreover, it is liberal societies—that is to say, social forces—that tame rogues, not an inter-state balance of powers.

The liberal order yields quite a different set of international institutions. War is outmoded, and the balance of power is the retrograde device of an *ancien regime* that ignored (because it was ignorant of) the well-being of the modern citizen. Traditional diplomacy has been displaced by public diplomacy and admixed with non-state diplomacy. The new institutions that matter are a growing nexus of human rights bodies, elaborating a new human rights order, and a multiplicity of international regimes that set the behavioral codes integral to a liberal order. These liberal practices de-center the state and displace the state-centric view: liberals insist that it is plural impulses operating both above and below the level of the state that should attract our attention.

This order is pointing us to (if we have not already arrived there) a *post-Westphalian order*. In the post-Westphalian order, the shared ideological quantum is high, and values matter. International society takes shape as a transnational network of value-laden plural social forces, not interest-driven plural states, and it transcends the static order of *de jure* equals. In the post-Westphalian order, states must look to their rights credentials. Liberal society emerges as a global *gemeinschaft*, not an inter-state *gesellschaft*, and its order is dynamic, not static.

These two accounts might seem, between them, to cover most of the possibilities for any discussion of the international order. A system must be either Westphalian or post-Westphalian. It must be either state-centered or society-centered. States must either balance power or get on the bandwagon. Change must come from either inside or outside. Therefore, it seems we must choose between Westphalian orders and liberal orders.

But it is not necessarily so. There is actually another possibility, one just visible in the confluence of these two orders. The third possibility is one of change, as democratic transition theory maintains, but change *within the Westphalian order*. Here, the state and its sovereignty would still matter. It would still be an inter-state order, and that order might well have independent effects. But in this account, the *state changes*, and those changes also have their effects. They would not overthrow the Westphalian order, but they could well alter its dynamic. The anarchic society might still exist, and it might well limit state choices—more than liberals would care to admit—but not nearly so drastically as the English School would like to suppose. In terms of Hedley Bull’s classic international institutions, they would still be recognizable, but their content, and even form, may have altered. Diplomacy, attitudes toward war, and the law of nations might change, and with them, the kind of international society that prevails.

Any story of change within the Westphalian order will be rooted in a rather different approach to the international order from either that of an unchanging sovereignty jurisprudence or a transforming liberal eschatology. This is the approach of historical sociology. Historical sociologists do not neglect the “statishness” of the modern state. Most are as insistent on the uniqueness of sovereignty and its modernity—on its differentiation from tribalism, ancient empire, or medieval theocracy—as any English theorist would wish. They point out, however, that the state is not always and everywhere the same thing, and that sovereignty may have a different locus and a different articulation, not only in time and but also over time. Sovereignty is not exactly ‘what you make of it’; any prevailing articulation of sovereignty would be regarded in sociological terms as precisely *not* a matter of choice. But it would also not be the same thing today as it was in 1800, and certainly not the same thing today as in 1648, with important consequences for the type of international society that takes shape.

This article will explore the notion of international society using categories drawn from the sociology of the actually existing and historical state—the historical state in Europe (since it was the European order that is generally credited with producing the structure of the nation-state). It will consider the historical state in terms of changes in its constitutive institutions: in its legal conceptions, governing formulae, developments in civil society, and prevalent economic patterns. They will be used to identify the different sorts of states that have successively dominated the long Westphalian moment, and the different configurations of international society that those different sorts of states have produced. There is no suggestion here that the state changed itself; neither will any account of causes be attempted. The exercise is one of typology and abstract modeling, and is intended to be suggestive of how states might remain states and yet induce change, and how an order might be a Westphalian order and yet be shaped very differently. They will lead us to some speculation on the use of concepts of change and the value (or otherwise) of thinking in terms of Westphalian orders.

### Historical State Types

Identifying a succession of state types within the Westphalian order is not a straight-forward business. Historically, states on the North Atlantic fringe developed their structures in advance of other states, with the result that autocratic government in the West showed signs of ‘modernity,’ secularism, and social participation while autocracies in the East were still insisting on divine right and firmly opposed to any participation in absolutist rule. Equally, cabinet government in Central Europe, when it emerged, was a later copy of British, then French practice, and the Italians did not adapt to it until after the unification of Italy in 1870.

There is also the distinction between the form of government and the socio-economic base—even where the form looked similar, it was articulated in different ways. Perry Anderson’s *Lineages of the Absolutist State* notes that autocracy in Eastern Europe had constantly to grapple with the prospect of serf flight, whereas in the West the transformation of the feudal peasantry into a squirearchy of landowners with attached labor allowed autocracy much more freedom in choices of governance. With regard to the democratic state, Greece and other countries of Europe’s southern littoral had the outer form of a liberal democracy before they had the support structures of liberalism. It took a long time for them to become liberal, if indeed the transformation is yet accomplished.

But we do have one major resource in identifying critical transformations: alterations in the practice of diplomacy itself. Diplomacy is an institution of states, and its alterations signal, and can be used to identify, different articulations of the state. When Castelreigh announced, after the 1815 settlements, that the British Crown would no longer concern itself with the petty interests of merchants, we may sense that a new moment had arrived in the Westphalian order. When, in 1917, President Woodrow Wilson adopted the principle of national self-determination, and declared that henceforth the United States would deal only with states that had reformed themselves along liberal lines, we may sense yet another such moment.

These changes in diplomatic practice suggest a triad of state types and recommend those distinctions outlined by Gianfranco Poggi in his classic introduction to the development of the modern state. Following Poggi, I will delineate the absolutist state, the ‘kabinette’ state that emerged in the nineteenth century, and the liberal democratic state. I will then suggest some broad characteristics of the kind of international society of states that each state type engendered.

#### *Absolutism and its Diplomacy*

The chief characteristic of the absolute state was undoubtedly its success in taming the diverse authorities of the post-medieval order. These included not only the higher nobility, with its pretension to quasi-autonomous ‘estates’ (territories as extensive, for example, as Burgundy), but also the political autonomy of the

towns, whose bourgeoisie had previously supported the monarchy against the feudal nobility. In legal terms, the notion of multiple sources of law had retreated; law was increasingly conceived as issuing from a single source, and a hierarchy of laws was gradually established. Absolutism also implied that the monarch was *legibus solutus*—that is, not himself bound by law. The state was absolute in the sense that its monarchy suffered no theoretical challenges to its authority, either from within the realm or without it.<sup>5</sup>

The monarch in his person was still religiously sanctioned but his rule had, in effect, become territorial. The causes of this shift are variously assigned, from exhaustion with religious disputation, to the burgesses' dependence on centralized authority to convert traditional forms of wealth into moveable capital.<sup>6</sup> But with regard to some of its consequences, there is less dispute. For those ambiguous 'realms' of the post-medieval order, it meant clarification of borders, and in terms of relations with other potentially equal pretenders it meant the demise of imperial ambition. Hinsley draws the distinction between the ministers of Charles V and Louis XIV. In the former case, "if they did not possess the unique European empire they still wanted to acquire it." As for the latter, "his policies, like his resources were . . . limited to using force to gain the Rhine and the other natural frontiers of France and to acquiring only such conquests beyond that as could be achieved without striking a blow."<sup>7</sup> In 1776, that Machiavelli of his time, Frederick the Great, advised, "a village on the frontier is worth more than a principality 60 miles beyond it."<sup>8</sup>

Dynastic interest seems to have been both of the state and not of it. Meinecke, the great historian of *raison d'état*, writes with confidence that "state interest was more sharply and consciously separated from the dynastic interest in the eighteenth century than ever before and was seen as existing for itself."<sup>9</sup> But dynasty remained the linchpin of a system of privileges through which the new state was being shaped, and it could not by any means be ignored: court privilege was being exchanged for local prerogative to rule. The obedient were in effect rewarded with the portable, and hence more valuable, 'luxury baubles' of a new aristocracy that, no longer burdened with raising arms or administration, required other means of support, and court privilege issued from a dynastic monarch surrounded by highly visible wealth. Pomp, dynastic display, and shares in that display were integral parts of absolutism's strategy of acquiring absolute domain. If, moreover, the concept of the state as separate from the ruler had become more clearly delineated,

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<sup>5</sup> Ibid., 173.

<sup>6</sup> Gianfranco Poggi, *The Development of the Modern State* (Stanford, CA: Stanford University Press, 1978), 63–64.

<sup>7</sup> Hinsley, 169.

<sup>8</sup> Ibid., 182; Friedrich Meinecke, *The Age of German Liberation, 1795–1815* (Berkeley: University of California Press, 1992), 321.

<sup>9</sup> Hinsley, 178; Meinecke, 281–2.

dynastic ambition remained a central articulator of state interests. This confusion allowed the authors of the *New Cambridge Modern History* to state with confidence that, of the three chief [European] wars of the first half of the eighteenth century, such wars only occurred “when matrimonial arrangements had failed or become inextricably confused.”<sup>10</sup>

Historians of civil society generally credit this period with its tentative emergence, and we can see what looked like increasingly autonomous ‘civilian’ activity, particularly economic activity, growing throughout the eighteenth century. But of citizenship *per se* we see little evidence. The absolute state was remote from society and viewed it, in Poggi’s characterization, “as peopled by *particulars* . . . subjects, taxpayers, potential military draftees, etc. but . . . unqualified to take an active part in its [the state’s] own business.”<sup>11</sup> Even in Britain during the eighteenth century, court and merchant stood at a great distance from one another. Poggi characterizes the relation of the absolute state to civil society as simply that of a ruler to a “suitable object of rule.”

It was not an object to which, however, absolutism was indifferent, particularly in its *economic* pursuits. The primary basis of the absolute state’s wealth was mercantilism, and mercantilism was largely a matter of promoting and regulating society’s private and corporate wealth creation in ways that allowed it to be taxed. Concern with a positive balance of trade, controlling competition and innovation, and building up a country’s bullion reserves were integral to the demand for taxable wealth that was created by the energies of *private hands*. The monarch’s job was to release those hands from the restrictions of guild and post-medieval corporatism while ensuring that a goodly share of their profits found its way back into the state treasury. Britain in particular was viewed as a nation inspired by ‘private interests.’ In this respect, historians of civil society are not wrong in crediting the eighteenth century with its inception. Such autonomous economic activity as had emerged was reasonably secure in its freedoms because it was vital to the wealth base of the absolute state. Kant, a contemporary observer, noted both the aim and its consequences: “Civic freedom cannot now be interfered with without the state feeling the disadvantage . . . in all its trades. . . . Therefore this freedom is being gradually extended.”<sup>12</sup>

In its first phases, the mercantilist effort was directed toward making uniform and ‘national’ what had previously been the prerogative of district, town, and guild. Through transforming local restrictions into uniform regulatory codes, capital was released and domestic enterprise encouraged. Exploitation of empire proceeded along the same lines, and the search for precious metals was supplemented and then surpassed by trade in, and the creation of markets for, silks, rum,

<sup>10</sup> Hinsley, 178; *New Cambridge Modern History*, vol. 7: 166.

<sup>11</sup> Poggi, 78.

<sup>12</sup> Hinsley, 178; Kant, “The Idea for a Universal History,” in *Kant’s Moral and Political Thought*, ed. C. J. Friedrich, 127–9.

tobacco, salt, sugar, and spices. The state deliberately positioned itself as the patron of the new enterprises, licensing them and contributing some of their costs, controlling in the process much of their direction and purpose. The absolute state may have been instrumental in the creation of a new capitalist class, but it was not acting so much for any given class as for itself.

For much of the period, foreign trade was more lucrative than the returns from domestic production, and the largest public companies were the foreign trading companies. Contemporary political economists credited foreign trade as the basis of the wealth of the more powerful mercantile states, and an increasingly large percentage of state expenditure was put towards increasingly costly international ventures. Companies paid for exploitation rights, set up factories, and cajoled (or coerced) natives. Royal navies chased pirates, opened ports, disciplined unruly local potentates, and protected trading routes. Such ventures filled the dynasts' coffers with shares of profit, grateful or coerced donations, and returns from the sale of exploitation rights

The nature and purpose of these efforts affected the scope and nature of imperialism. Whereas Isabella's explorers had had to busy themselves with the conversion of natives, the destruction of their social structures, and the outright possession of the lands they conquered, the absolutist monarchs could dispense with such concerns. Outreach there was, but of privateers and chartered companies, the latter operating within foreign kingdoms. In effect, imperialism had become *colonialism*, and colonialism concerned itself more with economic exploitation than territorial possession. Company traders lived at their ease in foreign ports and foreign courts, adopting the dress and many of the manners of their hosts and rewarding them with such new contrivances from the West as might amuse them.

The consular system, developed during the seventeenth century, was the visible sign of the inner structure of colonial mercantilism. Aimed at securing the company, factor, and trader's 'interest' in the Near East, Africa, and India, consuls were more numerous than ambassadors, and while not strictly 'courtly' they overlapped their functions and carried out other tasks that were, if anything, more central. They were paid by trading companies, into whose service they entered for life. But they also acted in the monarchical interest and effectively served as crown agents and diplomats in those alien kingdoms and territories with which European monarchs had not yet concluded formal treaties and which were therefore not part of the European diplomatic system. (There were no consuls in Germany, but a French ambassador to the Sublime Porte resided alongside English, Dutch, and Spanish consuls, since France had concluded treaties with the Porte.) Such dual service would scarcely have been possible had interests of merchant and crown not so thoroughly overlapped. Consuls represented that melding of merchant adventurer and monarchical interest that was at the heart of mercantilism.

Both were part of the system of sale of offices. Consuls began their careers as company apprentices, and they paid for their apprenticeships, which became

increasingly costly as companies amassed wealth. Ambassadors not only paid for their appointments, they were expected to pay their own costs. Such posts were potentially lucrative, bestowed honor and, a consequence of the latter, offered position at court. (They were also dangerous. When, in 1683, the French commander Du Quesnes bombarded Barbary pirates at Chios Island, an Ottoman possession, the French Ambassador to the Porte, Guilleragues, was asked personally for reparations of 75,000 *ecus* and was thrown into jail when he refused to pay.)

The strengthening of territorial rule, the absorption of smaller and weaker territories into larger and stronger ones, and the avidity of foreign pursuits led to an open-ended, risk-laden and competitive power struggle among sovereigns. Trading rights—even the most minor issues of border demarcation or the status of a particular town—were pawns in a zero-sum game in which each state struggled to gain an advantage that, if lost, would assuredly benefit a rival. If each interest was in itself small, each was also potentially large in the sense that anything could give advantage. It was this ceaseless pursuit of even small gains that gave rise to that “strong contrast” noted by Hinsley “between the realistic and limited nature of the objectives of foreign policy and the acute avidity with which these objectives were pursued.”<sup>13</sup> The smallest acquisition abroad, the slightest advance by one state against another, came to matter enormously when the fulcrum of the state was absolute rule and mercantile advantage.

War was a function of interests, either those of merchants or of the monarchy/state. The standing armies were the new instrument of the absolute state, necessary to free it from the vagaries of aristocratic support, and they were deployed willy-nilly. The War of Jenkin’s Ear was as much a war as were the longer hostilities of France and Britain in the New World. War as a conceptual category under absolutism did not distinguish between major and minor conflicts, police action, or coercive diplomacy. The fading category of war was that of public versus private, and private war had virtually disappeared by the end of the seventeenth century, leaving public war the clear prerogative of the state, and making ‘public-ness’ the defining characteristic of war itself. In the eighteenth century, war was what states did, and almost any state’s use of force was denominated as war.

Borders within Europe, whose chief feature in the post-medieval period was their porousness, became increasingly so after the Wars of Spanish Succession and the break-up of the Habsburg-Spanish power complex. The new rulers of its former component parts “did not hold them with the firmness of traditional possession,” and they were easy prey to states whose fundamental rule was “the principle of extending their territories.”<sup>14</sup> The Ottoman habit of moving whole villages with their special crafts around the empire took the form in the more advanced West of gaining towns without essentially changing their structures and

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<sup>13</sup> Hinsley, 177.

<sup>14</sup> Hinsley, 177; Meinecke, 301, quoting Frederick the Great’s advice from 1743.



ceding them in return for richer prizes, resulting in “a swift winning and losing and exchanging of territories.”<sup>15</sup>

Under such circumstances, alliances could not help but be temporary and tumultuous. Each state arrogated to itself the right to make, and break, alliances at will, all under the notion of *raison d'etat*. International lawyers tried in vain to find a simple principle for regulating the priority of alliances, but it was a vain exercise given the nature of the absolutist game. In addition, the flexibility of alliances was increasingly justified by the new writing on the balance of power, which justified states changing sides in order to keep the balance stable.

The search for principle was formally abandoned with respect to international law. In 1758, Vattel published his *Le Droit de Gens*, laying to rest Wolff's idea that Europe constituted a form of *civitas maximus*, as well as Grotius' Christian humanism. He declared that “each independent state claims to be, and actually is, independent of all the others,” and he deduced the rules of the law of nations, not from “the fiction of such a republic,” but from practice, from what states actually did.<sup>16</sup> It became the authoritative text of absolutist diplomacy.

### Cabinet Diplomacy

By the beginning of the nineteenth century, the idea of the state had come to mean an abstract legal order where obedience was seen, increasingly, in terms of a general moral obligation. In the constitutional state, commands are valid in so far as “they are issued in conformity with valid general norms,” not as the utterances of special persons. In the constitutional state, “citizens do not obey one another, but rather the law itself.”<sup>17</sup> In comparison to the absolute state, the constitutional state took form fully as a product of *ratio*, not of *voluntas*. In turn, power was de-personalized; the state became a formal hierarchy of offices, and the state's business was conducted more and more on the basis of matter-of-fact judgment and less and less on “brawn, ceremonial pomp and war-like display.”<sup>18</sup> All the states of the European order were scarcely constitutional in the sense of possessing a limited monarchy, much less constitutional guarantees. But even Russian absolutism had to bow to the idea of a legal state of which the absolutist monarch was accordingly recast as a hallowed caretaker.

In terms of a formula for governing, monarchs and emperors increasingly belonged to the dignified function only; the efficient running of the state was in the hands of prime ministers and cabinets. Monarchs and emperors, even as far afield as Japan and China, were firmly pushed into the background, and government passed into the hands of small groups of men who, even where absolutism

<sup>15</sup> Hinsley, 177; Meinecke, 301.

<sup>16</sup> Vattel, *Le Droit de Gens*, Book III, Ch. 3, sec. 47.

<sup>17</sup> Poggi, 101. Poggi speaks of the near identity between the state and its law that developed during the nineteenth century; 102.

<sup>18</sup> *Ibid.*, 109.

had not been displaced, were only by courtesy monarchical servants. Metternich and Bismarck, no less than Palmerston and even Talleyrand, were more important than their kings, and they directed cabinet systems that had largely tamed their monarchical rulers. One might, indeed, characterize the period as one of cabinet government rather than constitutional government *per se*.

The Napoleonic Wars and the need for an agreed-upon Restoration to contain France were no doubt the spur for concerting. But cooperation, with its idea of a public law of Europe, could not have emerged without the new matter-of-factness, without the displacement of ceremony and war-like display, and without a body of administrators who had more in common with one another than with the monarchs they served. Much has been made of the sympathy among monarchs that emerged during the nineteenth century, but less has been made of its novelty (absolutist monarchs had displayed little sympathy for even their close relations), or of the uniform experience of displacement that underpinned it. It was paralleled by an equally evident sympathy among Europe's ministers, each having to contain and cajole fitful monarchs. One might, without excessive effort, imagine ministerial encounters at the numerous congresses that proceeded through the nineteenth century where, beside the business of the day, the European cabinet corps might well have exchanged notes on how best to control the monarchical impulse.

Parliaments had become the seat of the sovereign will, and they represented not so much constituents as the state itself. Cabinets were drawn from them, and their business was (continuous and public) law making. Parliamentary prerogatives became absolute, and any notion of traditional prerogative was finally cast aside. Nineteenth-century parliamentary language is the language of positive law. If customary law continues to matter, it does so as an aspect of parliamentarily-sanctioned positive law, and the making (and enforcing) of that law becomes the very expression of the constitutional state. As sovereign, parliaments also know no limitation; positive law enacted by parliaments can "orient and empower an indefinite variety of acts of rule."<sup>19</sup>

A civil society, now termed a public, had emerged in its full glory, but it was a limited one, made up in both civil and political terms only of property owners and the educated. The citizens related to one another formally in terms of abstract legal codes whose enactment was the duty, and indeed the business, of the state. The ordinary business of the state *vis-à-vis* individuals was to provide the legal framework for the pursuit of private interests, essentially by providing the means whereby, if necessary, they could call upon the state's legal apparatus to secure those interests. Informally, however, those relations were also increasingly being cast in terms of the 'nation.' The national idea had grown steadily throughout Europe following the Napoleonic wars, and generally pictured the diverse strata

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<sup>19</sup> *Ibid.*, 111.

of nineteenth-century society in terms of functional parts of an organic union over which government presided and to whose interests it was in service.

A kind of diluted religiosity was transmuted into respective national narratives, and much was made of different religious traditions and their contribution to individual national traditions. But the religious interest *per se* had faded from the scene. Gunpowder plots and religious intrigues aimed at unseating kings were not a major concern of the nineteenth-century constitutional order. If anything, it was a public capable of intense arousal, particularly with respect to foreign adventures, and financial scandal that could pose a threat to government.

The economic interest had become much broader, uniting a fast developing industrial interest with the older mercantile interest. Given the rapid rate of domestic industrial growth of the leading economic states, the balance between the two also changed, and the protected position of the large trading companies was gradually eroded. In relation to the industrial interest, mercantile interests were no longer seen as the only or even major producers of transferable wealth (wealth that could directly benefit the state). The wealth of the state was seen to depend increasingly on encouraging economic production at home. The Great Exhibition of 1851 was a celebration of developed national products and colonial manufactures, not of traded primary goods. Moreover, it was widely recognized that home-grown wealth was as important in the contest of states and to procuring their interests as externally produced goods. (Indeed, if, under classic mercantilism, merchant adventurers were freed from domestic restraint, increasingly under industrialization, imperial ventures were regulated according to the needs of domestic producers, especially the more advanced domestic producers, not vice versa.)

These developments underpinned, and confirmed, a notion of state wealth as a public resource, not a private attribute of the crown, and they altered thinking about its provenance. “The state’s increasingly vast and expensive operations are financed from a distinctively public store of wealth, one that is replenished by levying taxes impersonally on the citizens’ incomes and expenditure—not by extorting donations from them, selling them offices or shares in the proceeds of the states’ military or colonial ventures, or drawing on their private wealth.”<sup>20</sup> But the developing legal order, the matter-of-fact deliberation of policy, and the growing industrial interest had other consequences that were not so benign. For one, colonialism found its limits.

As noted, under absolutism, empire had altered from dynastic possession of territory to piecemeal and scattered possession of colonies and ‘factories’ (as the Western commercial outposts in China were known). Increasingly during the nineteenth century, however, colonial possession came to be seen as an attribute of a metropolitan economy that was increasingly visualized as a whole, and colonies were increasingly exploited as integral parts of the productive systems of imperial

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<sup>20</sup> Ibid., 97.

states. Also, with the growth of civil society, many citizens had gained some sort of stake in the imperial economy, and imperial policy had become a matter of direct concern to a large and interested public. Colonialism ceased being a matter of a personal relationship between a court and a set of merchant adventurers; it had become instead a 'national' question and a subject of political competition among missionaries, explorers, entrepreneurs, companies, and armies.

All of these competing constituencies demanded deepening colonial rule, if only to reconcile their competing demands, a development that involved increasing interference in local customs and local rule, to their ultimate displacement. Formal empire was an attribute of the constitutional state, not of absolutism, which did not require it.

The civility of 'civilization' extended itself to the imperial venture. The language of nineteenth-century imperial management turned on a renewed category of differentiation, though it was not one of religion, nor (yet) of regime. Its central distinction was the civilized versus the barbarian kingdom. The civilized kingdom allowed reciprocity, recognized the international law of Europe, and permitted and protected economic exploitation, even when most of it was in private, foreign hands. Barbarian kingdoms were those that rejected equal intercourse with Europe's diplomats, did not protect European citizens, and refused the strictures of its developing commercial law. In return, they did not enjoy the protection of the public law of Europe, and fell prey to intervention and colonization. (Civilized kingdoms were increasingly incorporated into the diplomatic system of Europe during the nineteenth century; Britain sent ambassadors to Thailand, Japan, and China.)

The chief business of the cabinet state in foreign policy was protecting its official (and its informal) empire against internal insurgency or external depredation. War between states in this context was confined to ambiguous areas that had not yet been assigned to one imperial master or another (hence the centrality of the Eastern Question), and it was a relatively low-level affair overall. The conflict over Persia, the Great Game between Russia, France, and Britain on the Indian subcontinent, and the Afghan wars partook as much of diplomatic maneuvering and espionage as they did actual use of force. The more serious, and extensive, use of state arms was in the service of policing and quelling internal revolt within the formally constituted imperial zones. International war, as a consequence, declined.

The idea of a shared law of Europe spread, but this was not to be understood in terms of the subordination of any one state's legal order; rather, it was presented as the body of common codes that all civilized states observed. Given the absolute locus of European political authority within parliaments, and the expression of that authority in terms of law-making, no other conception was possible. It reached its height with the Hague codes on the laws of war, and it came to an end in the trenches of the First World War.

### Democratic Diplomacy

The chief features of the democratic state are the widening of the franchise to include the majority of the adult population, the spread of a uniform system of rights, political in the first instance but also increasingly economic and social, and the displacement of parliaments. Sovereignty is seen as belonging to a more abstract entity, 'the people,' and is expressed and reaffirmed in ongoing and open-ended processes of contracting overseen by an executive and an administration who are held accountable through periodic elections. The contractual process becomes, in many cases, long and drawn out, and is invaded by many organized actors and interests. The precise locus of sovereignty becomes, accordingly, more difficult to determine. Harold Laski, who took the locus of sovereignty to be the central question of democratic politics, was satisfied to place it not in a body at all, but in an idea—the notion of the final decision. Its clearest expression comes, in fact, in acts of foreign policy, the only area where the democratic state is required to act with reasonable coherence and in a fairly determinate manner.

Government passes from a cabinet legitimating itself through the acts of a sovereign parliament to an executive legitimating itself directly from the 'general will' of the nation, tested by polling and electoral cycles. Cabinets are essentially personal appointments of the chief executive, and ministers are directly dependent on the executive will. The executive is seen to be the representative of a political party, organized via the electorate, and this party is more an expression of a 'mood' or broad ideological orientation than it is an open-ended coalition reflecting one or another constitutional position. Poggi makes the telling contrast between the nineteenth-century parliament's critical role as the sole, *autonomous* mediator between societal interests and its twentieth-century reduction to little more than a stage on which are enacted "vocal, ritualized confrontations between preformed, hierarchically controlled, ideologically characterised alignments."<sup>21</sup>

The democratic state ceases to speak the abstract and general language of law favored by the constitutional state. The causes for this may not be immediately obvious, but they reveal themselves to closer scrutiny. On the one hand, there are the struggles for political (and social and economic) participation by under-privileged groups, the conditions for which cannot be created by "formal and contentless considerations of procedural correctness."<sup>22</sup> Just as relevant, however, are new agglomerations of economic power, the new public corporations and joint stock companies and the accompanying employee associations and trade unions. Neither stands to gain by strict observance of procedural rules, and both would prefer, given the chance, "to take liberties with the rule of law."<sup>23</sup> Nineteenth-century legal codes become a source of contestation, and democratic governments are

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<sup>21</sup> Ibid., 141.

<sup>22</sup> Ibid., 132.

<sup>23</sup> Ibid., 132.

required to twist and turn to incorporate and pacify new members of the body politic. A law that stands above society and merely sets the rules for private exchange cannot serve these ends.

Instead of law, the democratic state enunciates *policies*. Law-making by parliaments is superseded by policy-making by governments, and the governing process becomes a series of policy cycles initiated and carried out over fairly protracted time spans, in many cases covering more than one electoral cycle. Law re-emerges, but in service to policy, and it is a very different sort of law. It is not general principles but administrative measures, and it is not the prerogative of parliaments, who can not be trusted with its formulation, but of civil servants, who carefully spell out the technical rules required for the implementation of policy. The history of the democratic state is not the history of kings, and not the history of parliaments. It is the history of governments and the fate of their policies.

The displacement of law by policy—which is in the hands of an executive and is initiated, set in motion, and curbed by the public or general will—has the utmost implications. It means that the executive is no longer restrained by the supremacy of parliament, or by fixed constitutional guarantees. If it is restrained at all, it is restrained by the political process and by balances of power outside the institutional order (on which more below). In institutional terms, it is restrained by the political media, by the electoral cycle, and by public opinion (and by the latter only in critical areas of state policy).

In the constitutional state, the citizen had been conceived primarily in terms of a corpus of private rights, with a public law designed to help secure or enforce those private rights. Under the democratic state, this changes. The enlarged electorate makes and enforces claims upon government that produce new rules, e.g. on collective bargaining, industrial protection, and welfare. Citizenship begins to entail positive rights: to education in the first instance, to worker security guaranteed by the state, and eventually to health care and a raft of other social protections. A new corpus of law appears (variously termed welfare, labor, industrial, social) that straddles the line between the public and the private and displaces the notion of a protected, and sacrosanct, private realm that defines the citizen. The citizenry becomes, in effect, functionally dependent on the state, and, in consequence, much more coextensive with the state. Statehood is increasingly identified with the sum of *de facto* social privileges that accompany citizenship, and less in terms of the abstract claims of a mythic and synthetic nation.

Nationalism does not thereby cease to matter, but it becomes more recessive and less cultural. It is its *utilitarian* expressions that matter, and these become variously identified with economic growth (to support the welfare claimant), technological development (increasingly identified as the critical component of growth), and the specified body of rights that are deemed to belong to, and to define, the nation.

The main protagonists of the twentieth-century industrial economy are the joint-stock company and the public corporation. They are large bureaucracies and, indeed, quasi-polities, with internal rules for their employees and codes of practice, internal systems of representation, and formalized procedures of conflict resolution. They are served by a stock market, which, albeit increasingly regulated, is a public non-state instrument for raising investment funds. They grow to enormous proportions. They are not unfettered in the majority of cases, but their productive systems overlap the borders of states. By the end of the twentieth century, more than one-third of world trade consisted of intra-firm trade.

Having copied the bureaucratic structures, administrative habits, and citizen-treatment models of the state, at various times the state returns the favor and copies the corporations. Most advanced states, with the partial exception of the United States, at various times have set up their own industrial enterprises.

These firms need much less immediate government servicing than their nineteenth-century counterparts did. They provide many of their own needs, including investment and innovation. They educate and socialize their employees. They even provide some elements of their own security. What they need from the state are peace, regularized access to new areas of investment and production, legal regulation of the public domain (including the international public domain), and mediation in industrial disputes that threaten economic viability

In relation to the democratic authorities, they are in several senses rivals. On the one hand, they are potential competitors in the struggle to structure the public domain. The interests of the democratic state and capitalism do not always coincide, particularly given the demands of economic modernization, and each has a formidable arsenal with respect to the other. These will be mobilized most visibly at times of economic depression, at periods of growing international hostility and instability, and at periods when governments propose some fundamental revision of the social contract. They are also rivals in a more permanent and on-going institutional sense, in that the balance of power under the democratic state is no longer primarily institutional but social. With so much power now concentrated in the hands of the executive, power is essentially balanced outside the formal legal order, and of all those forces outside the legal order, the economic force is by far the most formidable.

Those who suspect that a closer, more intimate relationship exists between the state and the economic order than that which I have described above would also not be wrong. The co-penetration of state and society that is characteristic of the democratic order, the demand for economic well-being—and the crucial role of the large firm as the major provider of economic well-being—allows economic forces to influence the state itself, either by the state not ‘interfering’ with the activities of the economic order, or by placing some of its faculties of rule, as well as potentially considerable public resources, at the disposal of private firms. Economic diplomacy is reinvented under the liberal democratic state, and places

the state's diplomatic resources directly at the service of those producers who are dependent on external markets or external suppliers. The state also begins to share some of the specifically technocratic and economistic values of the capitalist economic order.

Among a set of states that are liberal democratic, whose executives are utilitarian and policy oriented, and whose policies are legitimated in terms of the demonstrable well-being of an incorporated and specific people, the major task of international relations becomes *policy coordination*. This means essentially ensuring that policy outcomes are undisturbed by unanticipated effects originating from outside the immediate policy process, and it involves incorporating the foreign factor at an early stage in the policy process.

In this process, the executive, freed from both constitutional constraint and fixed legal principle, has a relatively free hand. It can devolve functions to joint international administration; it can share functions, retaining for itself, at the same time, the ultimate choice of whether to obey its agents. David Armstrong notes the difficulty the nineteenth-century state had in even agreeing on what should be the standard amount of sulphur in matches. Once parliament is no longer sovereign, once the law has been broken up into particles or pieces, once the day-to-day job of government is policy elaboration, such tasks are no longer difficult. International administration becomes simply another aspect of domestic administration, so long as the policy objective is generally agreed upon. (Lindberg has referred to this qualifier as "the permissive consensus," indicating a relative indifference to modalities so long as the policy enjoys social consensus.)

Competition between states does not come to an end. States continue to compete: they compete for growth and they compete to set the terms of cooperation. But their competition is largely a routinized matter, much of which is barely reported by the political press. In his account of a future interstate order made up of a commonality of utility seekers, Bentham provided a useful characterization of this kind of competition. He noted that, among such utility seekers, there would be rivalry but not enmity.

Enmity is reserved for states outside this process. In effect, enemy states are those who do not share the largely workaday, utilitarian, policy-oriented conventions and procedures that are the *ultima ratio* of the liberal democratic state.

War is, accordingly, sharply differentiated. It becomes, as democratic transition theory insists, outmoded as a normal instrument of state relations. It is not only reserved for circumstances affecting the highest questions of national-well-being; what is more relevant is that enemies are always required to be demonstrably 'other,' and the justification of war must necessarily involve demonstration of this condition. The *casus belli* for the liberal democratic state necessarily concerns essentially state, or regime, type.



### **Change and the Westphalian Order**

Given that change in the Westphalian order is obvious, given that we can abstract some of the central features of those changes, and by such means postulate their effects on international institutions and diplomatic methods, of what precise use are such pictures? Do they point to something essential? Or do they rather conceal the essentials? Advocates of the balance of power would claim that they conceal, that, at best, these are merely different registrations in the changing power and interests of states, and that they *are still states after all*. Liberal eschatologists would not disagree, but rather would point to a different aspect. They would argue that the focus upon the state conceals the degree to which society under liberalism has broken free of the state. (Or, as a Marxist might put it, “with so much homogenising and hegemonialising in fact done by the capitalist economic system, what is there left for the state to do?”<sup>24</sup>)

I will posit one modest and one rather grander answer. On the modest end, such pictures suggest that we should limit the search for essence and concentrate more on form. There is no use arguing, as English School institutionalists are wont to, that the economic diplomacy prevalent among liberal-democratic states is not ‘real’ diplomacy. The point is to understand how economic diplomacy is articulated, which interests it serves, and when it is likely to be recast, to give way, or be shunted aside, by the other less purely economic endeavors that the democratic state must entertain. Equally, with regard to liberal rights, if rights are a variable quotient within the state, if their essence is disputed, and if liberal contracts are rewritten, then the question surely to ask is not which rights are primordial, but rather what work they are doing.

The grander answer takes off from the more modest one, and suggests the necessity of a notion of an overall structure in order to evaluate particular forms. Pictures of state types are pictures of structure. The specific elements of any structure may be disputed; anyone is free to propose different connections from the ones suggested above. But unless we have an overall picture of some structure into which economic diplomacy, or rights, fit, all bets are off. There is no satisfactory way of evaluating specific social forms unless there is posited a relationship to a social order that gives meaning and significance to those forms. It is, moreover, in relationship to an overall order that specific questions of form become research-relevant. There would be no point studying the movement of rights, or the presently popular process of ‘identity formation,’ if we do not have a theory of the political order to which such movements are relevant and to which they make a difference. In the eighteenth century, the question of rights primarily concerned the rights of the different strata of society, not of different individuals. The question of individual rights only becomes relevant in a society that is no longer organized in terms of fixed strata. If the construction of such pictures are of ne-

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<sup>24</sup> Poggi, 121.

cessity theoretical endeavors, they are of the genus 'third type'; they are those that guide the empirical agenda, and they help us to frame more accurate hypotheses.

The function of the notion of change is that it alerts us to these inner mechanisms. We do not of course have to tell the story of change over and over. But at the heart of typology is analogy and contrast. We know what a thing is because we know what it is not.

What in this instance analogy and contrast tell us is that there was no single Westphalian 'moment,' in the sense of a single identifiable type of political order that appeared and then was determinate of all subsequent forms and actions. Westphalia does exist, but it is a category, not a type. It is a genus, to be distinguished from its constituent species. Just as there is the genus *canis* and within it many species of dog, so there is the genus Westphalia, and no singular instance of it. The purpose of that genus is to distinguish it from other generic political forms, such as empires, feudal orders, or Italian city-states, while setting out the defining characteristics of the genus. Sovereignty, understood in terms of the origins of positive law, territoriality, rule over territory and not rule over persons, and *raison d'état* (albeit of very different estates), encompasses those characteristics that mark the genus. They are not qualities of the individual species. If one finds these characteristics inadequate to a full understanding of the international order at any specific moment, this is scarcely surprising. The many species of dogs, wolves, and jackals also exist in very different forms and within very different social structures.

Recently, some advocates of the English School approach have sought to elucidate the meaning of Westphalia through a focus on its institutions. Notably, Barry Buzan has recently constructed a hierarchy of first- and second-order institutions, the latter being the variants of, or possibilities inherent in, the first. This is a brave effort, but it does not hold. First, it identifies Westphalia with its institutions, instead of its governing rules (a categorical confusion between the species and the genus). Secondly, changes in social structure do not obey strict linear rules; they do not evolve in hierarchical orders. They cross categories and affect one another. This means, among other things, that institutions will not have a continuous existence—that some will die out, as the consular system died out, while others will be invented, as economic diplomacy in its modern form was invented. And they do this because, in biological terms, they are part of the evolution of the species, not of the genus.

In considering the question of change in the international order, the relevant question is whether one is identifying change in the species, or rather evacuation of the genus. It may be that the present age is leaving the Westphalian order behind. But that is not an argument that can be based on differences in social structure. Rather, one must look to the categorical rules. And the requisites of the latter are not 'revisions' in the idea of sovereignty, nor do they indicate that sovereignty is being 'relocated.' Both are integral parts of the story of Westphalia itself. Leav-

ing the Westphalian order would require a different set of indicators altogether. It would require clear evidence that an intramundane legal persona, in possession of a territory, and which made law, had ceased to be the organizing principle of international legal and political space. If there is no single Westphalian moment, then any argument that our own age is post-Westphalian would have to be much more rigorous than most of the versions so far proposed. When Democratic Transition Theory meets the English School, there are also lessons for DTT.

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