

# Chapter 1

## The International Order

### From Vienna to Versailles – the Rise of the Nation State

International society as we know it today is composed for the most part of self-governing states, often referred to as ‘nation states’ even though many are in fact multi-national. This association between ‘state’ and ‘nation’ is reflected in the expression ‘international relations’ which generally refers to relations between states, as well as the diplomacy, treaties, agreements and (relatively) occasional conflicts that govern or disrupt these relations. But it was not always so. Even the briefest survey shows that for most of history, international relations were between *empires*. The ancient world was dominated by Greek and Roman, Mogul, Chinese and Persian empires. The Holy Roman Empire of the Middle Ages led to the Spanish, Portuguese, and Dutch empires of the early modern period. The British, Russian and Ottoman empires that arose at much the same time continued to dominate international events throughout the nineteenth century and even into the twentieth. Each of these empires incorporated very many different, and disparate, ethnic groups, who were governed by a ruling elite, often (though not always) drawn from just one nationality. Thus, Russians ruled over Tartars, Georgians, Ukrainians, Poles, and Chechens. The Ottoman Turks ruled over the populations of North Africa, the Near East and what we now think of as Eastern Europe. The affairs of hundreds of millions of people in Africa, Asia, North America and Australasia were controlled from London by the British.

Set against these facts, it is easy to see that the autonomous state is both a modern and a European phenomenon. Many commentators date its origins to the Treaty of Westphalia in 1648. This treaty (in reality a number of different treaties) brought to an end a sequence of religiously motivated wars. One of its consequences was to revive the Roman concept of '*raison d'état*' making the political integrity of the state, rather than its position vis-à-vis the Christian religion the most fundamental justification to which a European ruler could appeal in relations with other states. In this way, religion was set aside and the 'political' dimension, narrowly interpreted, acquired the centrality in relations between states that it now has. It was this that laid the foundations for international affairs as we understand them today.

However, it was a long time after Westphalia that the transformation of the international arena from a few great empires to a world of nation states finally came about. The change can be seen most clearly if we compare the international orders that emerged from the Congress of Vienna (1815) and the Treaty of Versailles (1919). Both were major international political settlements. The Congress of Vienna marked the end of the Napoleonic Wars. This period of strife in Europe was the outcome of the brilliant military exploits of Napoleon Bonaparte (1769–1821), who intended to establish an empire, a far-flung grouping of nations, governed by the French with himself as Emperor. Napoleon's imperial ambitions, it should be emphasized, were not at all extraordinary in his own day, as were, for instance, Hitler's in the twentieth century. Empire building was still the norm. In resisting Napoleon, the British, Russians and Austrians were not opposing the *idea* of imperial rule, but the threat that this particular expansion of French power posed for their own territories and spheres of influence. This is reflected in the fact that the settlement of Europe which followed the Congress took account only of the balance of power between the then imperial rulers; the nations (i.e. ethnic groups) they ruled were not themselves of any great consequence. This struggle between empires continued to dominate nineteenth-century international politics. For the remainder of the century Britain sought to defend its empire in India against the threats it saw coming from the expansion of the Russian empire into Central Asia. What was known as 'The Great Game' of espionage and counter-espionage was played out between these two powers for several decades. It continued to be played in the early years of this century between Britain and Germany,

many of the popular adventure stories by John Buchan being based on the spying and intrigue which the covert struggle between the British and the Germans generated.

This imperial conception of international order, shared by all the parties to the Congress of Vienna, stands in very sharp contrast to the principles invoked in the Treaty of Versailles that concluded World War I (1914–18). At the Paris Peace Conference, where the Treaty was agreed, President Woodrow Wilson of the United States insisted that the rights of nations to self-determination should play a significant part. State boundary lines were to be drawn, not in accordance with the requirements of the balance of power between imperial blocs (or not solely), but in accordance with national identity. This was a principle of which other negotiators at the Conference were skeptical, notably the French Prime Minister Clemenceau, and as a result the political map which emerged was only partially constructed in this way. But the fact that the basic unit for the international order could be taken to be the nation, an idea which would have found little support one hundred years previously, shows what a significant change had taken place in the course of the nineteenth century in the nature of international relations.

Though the origins of this change may perhaps be traced as far back as Westphalia, the most powerful factor driving it forward in the nineteenth century was the spread of political nationalism. Nationalism takes many forms, cultural as well as political, but a central, almost defining, belief of political nationalism is the doctrine that each nation should constitute a state in itself. In the elaboration of this doctrine, the criterion of nationhood – what makes a collection of people into a nation – is obviously crucial. In the early period of nationalism, its theorists argued that the definitive characteristic was language, and though after a time a broader and looser definition came into play, national identity structured around a common language continued to play a very large part. The formation of Germany out of many minor principalities made a common language its principle of unification, and language also played an important part in the struggle for Italian independence from the Austro-Hungarian empire, as it did in Greek aspirations of freedom from the Turkish Empire and Iceland from Denmark. In a similar spirit, the revival of a distinctive national language was one (unrealized) aim of Irish independence from Britain. Yet even in the absence of a common indigenous language, political

nationalism came to dominate thinking about the international order. The demise of European empires in Africa and Asia led to demands for the creation of nation states in places with several, sometimes large numbers of local languages, and where only the language of the imperialists (English, French, Portuguese) could provide the newly emergent state with a common tongue. In this way, concepts of state and nation that arose from the peculiarities of European history, were adopted and adapted in other parts of the globe without that history, until it finally came to be taken for granted that international relations are relations between nation states.

Arguably the very possibility of a subject called ‘ethics in international relations’ is one important outcome of this change of thinking. When the world was governed along imperial lines, moral considerations did enter into political debate, but principally with respect to the relations between heads of state, on the one hand, and ruler and ruled, on the other, not between nations and peoples. The ethics of making and keeping agreements between kings and emperors was always of importance, and in the past, philosophers and theologians had often wondered about what moral limits restrained a Christian prince in the treatment of enemies and governance of the peoples subject to his rule. This question continued to be of consequence even when the term ‘Christian prince’ was no longer strictly applicable. Was Britain, for instance, as a Christian country, entitled, or perhaps even obliged to convert to Christianity the Hindu and Moslem subject peoples of the Indian sub-continent? In arriving at a policy on this issue – Christian missionaries were given the protection but not the support of the state – the British government of the nineteenth century tended to mix principles with pragmatism, but the principles invoked had to do with the duty of the ruler and the welfare of the subject. If the imperial powers acted (more or less) decently and to the benefit of their subject peoples (or at least not their gross detriment), this was deemed sufficient justification for their subjugation. Or perhaps more accurately, their subjugation was only of any consequence in the context of misrule.

Against this background, nationalist aspirations introduced a quite novel moral notion – the rights of peoples. Nationalists pre-eminently claimed the right of self-determination of peoples, by which was meant ethnic groups. This lent a special sort of justice to their cause, for even when subject peoples were not being ill-treated (though unquestion-

ably they often were), the fact that they were not self-governing was in itself a moral grievance. The national state thus became an expression of an ethical ideal – the right of each nation to rule over itself – and the history of the twentieth century can in large measure be seen to be an outcome of the prominence, prestige and popularity of this idea. The Allied victory over Hitler in World War II, for instance, is plausibly interpreted as the defeat of one last openly expressed ambition to form a *Reich* or empire. By the middle part of the century, the power of nationalism was graphically illustrated in the rapid demise of the Dutch, French, Portuguese and most notably British empires, as more and more of their subject peoples claimed the right to self-government.

The independent nation state as an ideal has continued to prove a powerful source of inspiration and justification, even in a period such as ours when the threat to national independence might be thought to have receded because there are no longer any legally recognized empires. This is illustrated by the aspiration to independent self-government on the part of ‘liberation’ groups who want to separate from national states, and who justify terrorist campaigns in these terms – the Basque separatists, the Irish Republican movement and the Tamil Tigers, for example. The same appeal is evident in the dramatic struggles between national groups that took place after the collapse of the former composite states of Yugoslavia and the Soviet Union. It finds an echo too in the allegations of *covert* imperialism made by emerging nation states – Zimbabwe, for instance. What converts the state from merely a political division (like a town or county council) to a moral or ethical ideal is the fact that all these groups defend their cause in terms of a *right* of national self-determination. Now if there is such a right, it cannot be a *legal* right, which is to say a right bestowed by international law, because insofar as international law does not enshrine it, its proponents hold that it ought to do so, in just the same way nineteenth-century nationalists such as the Italian Giuseppe Mazzini did. Indeed, the belief in a right *more fundamental* than international law, which international law *ought* to respect, explains the terms of many modern international agreements, including the United Nations Charter. In this respect the right of self-determination is similar to the human rights of individuals, upon which there have been many international declarations.

The importance of the idea that nations have ‘moral’ rights, of which the most important is the right to self-government, can hardly

be exaggerated. It colors almost all thinking about ethics in international affairs. This is because the ‘right’ to self-government has been extended beyond the bare right of a state to exist, and has come to include rights that protect and promote it, namely rights relating to self-defensive military action, humanitarian intervention, distributive justice, and the environment. Taken together these concerns form much of the subject matter that falls under the label ‘ethics in international relations’ and hence most of the topics examined in this book. To consider them properly, however, it is necessary to begin by examining the general idea that nation states are ‘moral’ units with significant rights. One way of doing this is to look at the merits of alternative ways of thinking, ways that might be described as internationalist or even anti-nationalist.

### The Challenge of Internationalism

One of these is the imperialism out of which nationalism arose. In the twenty-first century, ‘imperialism’ is a dirty word in international relations, and hence virtually impossible to defend. But up to the late nineteenth century imperialism was widely regarded as a natural and respectable form of government. This was not simply the result of prejudice and ignorance, as it is almost always viewed today. It often reflected the political stability that the citizens of empire experienced and valued. Imperialism is easily decried. Often, though, this is not because of its intrinsic nature so much as the racist ideas and commercial greed associated with just one phase of its history – the late nineteenth-century ‘scramble for Africa’ between European states, a period whose brutality is powerfully conveyed by Joseph Conrad in the novel *Heart of Darkness*. As far back as ancient Athens, imperialist expansion has been driven in part by the desire for wealth and territory, but racism properly so called has no necessary connection with this and is an idea that appears relatively late in the history of imperialism. To appreciate how imperialism can continue to present modern ways of thinking with a *real* challenge, we should set racist beliefs aside. That is partly because they neither need nor merit refutation, but more importantly because they are not central to the idea of imperial government itself. In fact, ‘imperialism’ can simply be construed as the rejection of national self-government, a rejection,

that is to say, of the idea that nationality is the best basis for good government.

Interpreted in this way, there are at least two things to be said in imperialism's favor. The Congress of Vienna, which settled Europe on imperial lines, was followed by a long period of relative peace. Although international tensions between the Great Powers of the nineteenth century continued, and developed into outright strife in the Crimean War, for the most part the settlement arrived at in Vienna secured peace and stability. In sharp contrast, the nationalistically inspired political settlement which emerged from the Paris Peace Conference rapidly proved to be unstable. In only 20 years world war broke out again. This cannot be blamed entirely on nationalism. The causes are complex, and include Hitler's imperialistic ambitions, though these were themselves fed by German nationalism, and exacerbated by racist theories whose patent absurdity did not prevent them from finding enthusiastic adherents. Still, the attempt to redraw the political boundaries of Europe in accordance with the ideal of the self-determining nation state gave rise to competing claims to statehood that quickly generated widespread strife and eventually armed conflict. The same phenomenon followed the demise of the Ottoman Empire – witness the conflicts of the Middle East – as well as the end of the British Empire, especially on the Indian sub-continent where rivalry between India, Pakistan and Bangladesh has continued. In Africa, too, the nationalist ideal has played its part in stimulating tribal and ethnic conflicts resulting in huge numbers of refugees as well as an enormous number of deaths. In short, a true imperialist, if there were any left, could argue with some justice that the idea of the right of national self-determination has not ushered in a lasting international order, but merely de-stabilized the more successful one that preceded it.

This observation is important because any justificatory theory of international relations must be concerned with political success as well as political rights. The international order requires stability and peace; war is the ultimate mark of failure in international affairs, and arguably, the right of nations to self-government has been a cause of war more often than the clash of empires. Empires can produce very long-lasting periods of relative peace and prosperity. A striking instance is the Roman Empire. We now know that the so-called 'Dark Age' which followed its collapse was not as dark as popular imagination once held it to be, but at the same time the idea was not without foundation;

Europe took a long time to recover, and North Africa even longer. It is also true that not infrequently the 'Pax Romana' was preserved by means of great brutality, but this is not a feature peculiar to its imperial character. Many post-imperial governments of the twentieth century cannot escape the charge of brutality either. A further anti-imperialist contention is that the peoples of the Roman, Russian or Chinese empires simply did not enjoy political freedom as we understand it today. Yet, the establishment of national sovereignty is no guarantee of political freedom for individuals either, not least because it can hardly be enjoyed by people caught up in international conflict or forced to become refugees. Why, an imperialist might ask, should we insist on *self*-government in preference to *good* government?

Second, there is a case to be made that imperialism is more realistic, because expansionist ambitions are inevitable in the conduct of international politics. History since time immemorial has been a story of the rise and fall of empires, and in the course of the twentieth century, the language of national self-determination was used to cloak the realities of empire building. It is highly plausible to argue that the Union of Soviet Socialist Republics was the Russian Empire by another name and under different (but still Russian) rulers, and that the spirit of the Chinese emperors – secretive, isolationist, autocratic and totalitarian rule – continued under Chairman Mao. Many contemporary commentators contend that American foreign policy is imperialistic in nature, one that uses military and financial aid to create dependence, and acknowledges the sovereign independence of other countries only insofar as it accords with US interests. With these considerations in mind, it can seem foolishly idealistic for those who believe in the right of national self-determination to think that such a radical alteration in the ways of the world is possible or likely on the part of those who aspire to rule it. From this more skeptical point of view, the doctrine of national self-determination, even if it is founded on ideas of justice and rights, is simply unrealistic as a lasting basis for international affairs.

There are then two salient points that can be made in imperialism's favor: (1) experience shows that imperial government produces a more stable international order; and (2) even if national sovereignty is something to be prized, it should not be valued to the exclusion of international peace and stability. Both of these are considerations that should not be dismissed lightly. On the other hand, they are unlikely



to make the claims of imperialism more convincing to a contemporary audience. Imperialism is too far out of favor, and too closely associated with racism and the ruthless exploitation of subject peoples, for the claim that imperial government is better government to carry much weight. The image of imperialistic ambition is that of Genghis Khan (c.1162–1227), the Mongol conqueror who established his rule over vast territories by a military campaign of almost unsurpassed ferocity. This is hardly an image that can commend itself, and it attaches unalterably to anything called ‘imperialism’.

It seems certain, then, that in any contemporary discussion of international relations, imperialism could not be credibly revived. And yet unfashionable ideas are not false because unfashionable. Anti-slavery was unfashionable once. Fortunately, the fundamental challenge that imperialism presents to contemporary ways of thinking about international affairs is not unique to imperialism. Indeed, it is not the claims of *imperialism* as such which need to be addressed, but the claims of *internationalism*. The title ‘Khan’ means ‘Universal Ruler’ and this suggests a link between imperialism and alternative forms of internationalism, which otherwise seem quite unconnected with it.

One of these is communism. The first half of the twentieth century was marked by the spread of communism, the second by its decline and near total demise. It is worth observing, however, that communism set out to be an international doctrine. That is to say, communist theory, as elaborated by Marx and more especially Lenin, held that political and economic interests transcend national boundaries. It is no accident that the most famous slogan of the Communist Manifesto is for the workers *of the world* to unite, or that the Congresses at which communists gathered were known as ‘Internationals’. Marx believed that nationalistic divisions were part of an ideological superstructure that served to disguise the real nature of economic relations and hence political affairs, and that for workers to have nationalistic loyalties was contrary to their true interests. In his view, the promotion of widespread belief in the right of national self-determination was just one more instrument in the armory of international capitalism, which along with others allowed it to continue to divide and rule.

Internationalism played such a large part in the foundations of communism, that for a long time it was believed that communism could not succeed in just one country. When Stalin, having failed to stimulate revolution on a European-wide scale, finally accepted the (interim)

aim of ‘socialism in one country’, this was regarded by many communists as a sign of failure and by nearly all as an unfortunate second best. Arguably, of course, Stalin’s ‘socialism in one country’ was itself something of a smokescreen for the continuance of Russian imperialism, and even when, after World War II, the ‘international’ alliance of socialist countries called the Warsaw Pact came into existence, it had more the character of a political grouping into which technically distinct nations were forced than a willing combination of peoples inspired by the socialist ideal. Still, whatever the truth about this, the internationalist character of communist theory did not lie in imperialistic ambitions, but in its fundamental belief that national divisions are of no real importance.

Once its great rival, communism is now no more able than imperialism to offer a credible alternative to the nation state. At the same time, it is worth remembering that one of the main reasons for declaring communism a failure is that the states which claimed to realize it never lived up to the internationalist ideal of its originators. So just as in the case of imperialism, the internationalist ideal itself ought not be identified with communism as such. It follows that objections to both, however persuasive, do not carry over to all and any form of internationalism, and if there is another version to be found, it may fare better.

‘Cosmopolitanism’ is the name generally given to just such a third version. The term is formed from the Greek words for ‘world’ and ‘city’. Cosmopolitans reject the widely held assumption that each nation state is a political ‘atom’, a discrete and independent entity, and that international relations is a matter of coordinating these atoms in a way that minimizes conflict between them, and advocate instead an understanding of international politics in which the most fundamental unit is the international community to which nation states belong. For the cosmopolitan, there is no more reason to attribute an inviolable political integrity to national government, than to county or city government.

As things stand, of course, there is this important difference. Regional, county and city governments are subject to national governments and cannot, ultimately, act contrary to the nation state within whose territory they lie. If national governments are to be regarded as subsidiary in the same sense, it seems by parity of reasoning that we need a ‘world’ government to which they are subject, and no such

government exists. This is unquestionably true, but it does not tell conclusively against cosmopolitanism because the cosmopolitan can use precisely the same line of reasoning to make the case *for* world government. If the international community is best realized in world government, there is every reason to move in that direction. But more importantly, perhaps, cosmopolitans might be content to point to the steady emergence over the course of the twentieth century of a number of authoritative international institutions – the United Nations, the International Court of Justice, the World Trade Organization, and so on. Each of these came into existence in response to the desire for an international body that would transcend national boundaries and thus serve as a means of regulating important aspects of international affairs. Why should institutions such as these not be sufficient to form an international order that transcends the nation state but stops short of world government?

The role of such international bodies will be a recurring topic in the chapters that follow, and the subject of cosmopolitanism will be returned to at greater length in Chapter 8. From a theoretical point of view the crucial debate lies between those who think that the society of nations needs institutions over which the nation state does not have an automatic veto, and those who do not. Anything properly called ‘world government’ implies, ultimately, the transfer of *all* sovereignty from the national to the international level. As we shall see, cosmopolitans can rest content with something falling short of this. Either way, the real challenge that internationalism presents to a nation-based world order is the assumption that sovereignty should reside ultimately with the nation state. Accordingly, it is the concept of sovereignty that must be investigated next.

## Sovereignty

Sovereignty is a central political concept. A political body is sovereign in so far as it alone has the authority to be ultimate decision maker, to have, we might say, the last word. There are political bodies – a town council, for example – that have all the trappings of politics – elections, officers, law making – but they are not sovereign if they are subject to the authority of some other political body, Parliament or Congress, for example. However, sovereignty is not just a matter of

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power. Indeed to understand the concept of sovereignty properly, it is essential that we distinguish power from authority. The age-old doctrine that ‘might makes right’ mistakenly confounds the two, since it holds that to have the *power* to make effective decisions implies the *authority* to do so. It does not take very much critical reflection, however, to see that there is an important error here. The *rightful* exercise of authority by a judge, say, can be brushed aside by the sheer power of a military dictator, and yet the original judicial decision does not thereby lose any of its rightfulness. History is full of examples in which constitutionally elected governments are overthrown by force of arms in a *coup d'état*, and while often there cannot be any serious doubt about who effectively rules the country, there is equally no doubt that their doing so is illegal. In such circumstances, the success of the *coup* leaves its perpetrators with power, but not with authority. In the language of the law, they govern *de facto*, i.e. as a matter of fact, but not *de jure*, i.e. not as a matter of law, or by right.

Cases like this lend support to the intuitive conviction that power and authority are conceptually distinct. Intuitive conviction is not argument, however, but the French political philosopher Jean-Jacques Rousseau (1712–78), in the *Social Contract*, provides an argument to the same conclusion. In the chapter entitled ‘The Right of the Strongest’, he writes:

Let us suppose for a moment that this alleged right is valid. I say that the result would be completely senseless. For as soon as right is founded on force, the effect will alter with its cause; any force that is stronger than the first must have right on its side in its turn. As soon as anyone is able to disobey with impunity he may do so legitimately, and since the strongest is always right the only question is how to ensure that one is the strongest. But what kind of right is it that is extinguished when that strength is lost? If we must obey because of force we have no need to obey out of duty, and if we are no longer forced to obey we no longer have any obligation to do so. It can be seen therefore that the word ‘right’ adds nothing to force; it has no meaning at all here. (*Social Contract*, Ch. iii)

Rousseau offers us a simple but convincing argument that right and might are necessarily distinct. It follows that to be concerned with establishing the proper basis of right and wrong, is to be concerned with the source of political authority, not the source of political power.

The workings of political power can be said to be the subject matter of political history and political science. The central question of political philosophy is the foundation of political authority, which can be possessed by the weak as well as the powerful. In this respect, politics is no different to more homely cases. An employer can bully workers into staying longer than their terms of employment require; it does not mean that she has any right to their labor.

Sovereignty is the stopping place of authority. This is why it is such an important political concept. The sovereign is the person or institution that has the last word, so to speak, on all matters relating to lawful conduct, and a monopoly on the legitimate use of coercion. The British Parliament (strictly, 'the Queen in Parliament') is sovereign, for instance, just in so far as it may both authorize and use coercive power to enforce its decisions over every other social organization and political entity within its jurisdiction. Those who oppose such decisions are not merely subject to the power of the state, which usually they are, but to the *rightful* power of the state.

The exercise of power, then, is made legitimate by authority, and sovereignty is to be defined as the ultimate legitimating authority. The difference between nationalism and internationalism can be stated this way. Whereas nationalism holds that each nation should be sovereign over its affairs, and thus entitled to act as it sees fit, internationalism holds that national actions are *rightly* subject to the wider international community, and thus that sovereignty does not ultimately lie with the nation state.

### Federalism and the International 'State of Nature'

The analysis so far has shown this. The common and familiar assumption that international relations are relations between sovereign nation states is a peculiarity of the past 150 years. It is an assumption that conflicts both with imperialism, the prevailing idea of most periods of the past, and with the more modern doctrine of cosmopolitanism – the idea of the world as a unity, a sort of 'global village' which cannot be cut up into isolated national units. Both imperialism and cosmopolitanism are internationalist conceptions. That is to say, they share the view that the interests of international order may override the interests of any one province or ethnic group (imperialism) or any one

autonomous state (cosmopolitanism), and that when the two conflict, the latter may rightfully be made to give way to the former. Nationalism, by contrast, holds that it is the nation state which is ultimately sovereign.

To adjudicate in this dispute properly, we need to inquire into the *source* of the authority to which internationalism appeals. Consider the contrast with imperialism once more. We saw earlier that imperialism, despite its current unfashionableness, can take at least some justificatory credit from the fact that there is plausible evidence, by and large, of imperial governments being more stable and peaceful than their national alternatives. The political situation resulting from the rivalry of nations clamoring for statehood has very often been one of violence and instability. Nor is this a feature merely of the far-flung empires of the past. The collapse of the Soviet Empire had this effect – the conflict in Chechnya being a specially striking instance. So did the demise of the artificial construct ‘Yugoslavia’. Forcibly held together under the dictatorship of Marshal Tito, his death was followed by the brutal wars of the 1990s between Serbians, Croats, Bosnians and Kosovars.

But, if this is indeed the best case for imperialism, it means in effect that the source of imperial authority is a modified version of the ‘might is right’ doctrine. The imperialist’s strongest argument is this: good government is effective government to the extent that it secures peace and stability, and imperial government is (often) effective; *ergo*, imperial government is good government. So far as it goes, this is a valid argument, but we should note that if and when imperial government has been effective, this has been the outcome of power. The great empires of the past were ruled, in the end, by force of arms. Their origins lay in conquest and their continuance in suppression of revolt. It is for this reason that people often think imperialism to have been unqualifiedly bad, even though imperial force of arms not infrequently resulted in good things. British rule in East Africa, for example, whatever its faults, was better for the inhabitants of that area than was the rule of indigenous tyrants (such as Idi Amin) that followed it. Certainly, imperial rule in East Africa resulted in nothing comparable to the terrible suffering of the people in Darfur under an independent Sudanese government.

The best objection to imperial government, then, is not that it was always harsh, but that even when it was good government, it rested on sheer power. Imperial rulers have no claim or entitlement to the

lands they occupy other than the fact that they have forcibly occupied them. When imperial rule is effective, this does indeed generate a claim to the loyalty of its subjects. Empires were ruled well, often, only because they were able to subdue local inhabitants, including, importantly, rival native factions. By this suppression, and because of its beneficial consequences, imperial rulers usually had the *acquiescence* of those they ruled. But what they did not have, and would not have thought of seeking, was their *consent*. It is this that makes imperialism a version of the ‘might is right’ doctrine. When force of arms failed, which in almost every case it eventually did, there was no residual claim to authority.

What, then, of the other version of internationalism we have been considering, namely, cosmopolitanism? If we take the prototype (though not the only type) of cosmopolitan government to be a body (something like the World Trade Organization) to which individual states apply for membership and are only admitted with the agreement of other nations, we can say that cosmopolitanism, in contrast to imperialism, gives pride of place to consent and agreement. Consequently, when an international body of this sort acts against an individual state, as the United Nations did against Iraq in the Gulf War of 1990, its authority rests not simply on might, but on the majority agreement of consenting members of what is nowadays increasingly referred to as ‘the international community’.

The legitimacy which agreement lends to the coercive actions of countries acting in concert falls far short of the much more ambitious idea of world government, an international system under which nation states are bound together in a way that makes them subject to the authority, as well as the power, of a supreme international sovereign body. The existence of such a body is a long way off (if indeed it is in prospect at all), but the basic structure it implies is a very familiar one – federalism. In this respect the United States provides an illuminating example, because, although we now tend to think of it as a single national state, the US was formed from an original compact or union between 13 independent states, all of which had achieved independence from British colonial rule. As was to be expected, what emerged from this colonial experience was an inter-state organization sharply in contrast to the imperial order that it had sought to escape. The founding states agreed to form a federation for certain purposes. These became matters for the federal government. For other purposes they

agreed to remain independent states, and these became matters of 'states' rights'. As new territories gained state recognition, they were in turn admitted to the federation, which implied that henceforth they were both entitled to representation in federal government, and at the same time subject to its authority over federal matters.

'States rights' in the US are much less significant than they once were, and the US Federal Government is much more like a single sovereign power that was envisaged at its inception. The European Community provides another and slightly different model of federalism, since it lays greater emphasis on 'subsidiarity', the doctrine that authority and power should be devolved as much as possible (a subject to be returned to at greater length in Chapter 8). But federalism of some sort provides the most plausible model for any likely form of international control. Interestingly, it is also a form of political association very much in keeping with a longstanding tradition in political philosophy, one which was as a matter of fact highly influential in the drafting of the American Constitution. This tradition holds that the authority of rulers derives from the consent of the ruled. It is a conception first expressly articulated in the writings of the English philosopher John Locke (1632–1704). Locke is an important figure in political philosophy for having written *Two Treatises of Civil Government*. The first *Treatise* aimed to refute the idea that kings rule by divine right, a view advocated by the Stuart monarchs of the recently united kingdoms of England and Scotland, and the second aimed to show that the authority of what Locke calls 'the magistrate', derives from the consent of those subject to magisterial authority. To demonstrate this conclusion, in the *Second Treatise* Locke engages in a sort of thought experiment. In order to discover the foundation of political authority, he imagines society without government (though he also seems to have thought that it did exist at one time). This he calls 'the state of nature', and in the state of nature, Locke contends, because there is no government, there are no civil laws. There are, however, *natural* laws which, among other things, give individuals rights to property, self-defense and the punishment of wrongdoers. Now, since individuals may be too weak or too partial to enforce their natural rights properly, they have good reason to agree to hand over some of their rights to a central authority which will exercise them, and hence protect them, on their behalf. In so doing, according to Locke, they bring political society into being and put an end to the state of nature.



The central authority thus created is the magistrate or government, and its authority derives from citizens in just this sense; by their consent and agreement the government exercises *their* rights. In contrast to the doctrine of the Divine Right of Kings, on the individualist theory Locke defends, kings and governors have no special right of their own by which they are entitled to rule: both their right to govern, and the limits on the way they may do so, derive from the natural rights of their subjects which in turn are derived from a natural law to which all rulers are subject.

Individuals in Locke's state of nature could be said to be sovereign in something like the way the nation state is generally thought to be. That is to say, they have the absolute right to decide matters for themselves, subject to the natural rights of others, and they can only justifiably be constrained in this if by free consent they combine together under one authority or government which then exercises some of those rights on their behalf. In short, in electing a 'magistrate' to exercise their rights in the interests of justice and public order, they form a sort of association or federation. Could such an account of federal law and legitimacy by consent be usefully extended to the international realm?

## The Law of Nature and Nations

*The Law of Nature and Nations* is the title (in English) of a massive eight-volume work published in 1672 by the social and legal theorist Samuel Pufendorf (1632–94). Pufendorf was building upon the work of Hugo Grotius (1583–1645) and especially his *Law of War and Peace in 3 Parts* first published in 1625. The ideas Grotius elaborated in this work provided the basis of the various agreements that made up the Treaty of Westphalia, and taken together, Grotius and Pufendorf may be said to have formulated the principles of international law and legal theory that have for the most part obtained to the present day. In particular we owe largely to Grotius the concept of political sovereignty that later became the basis of the territorial state.

Like Locke, both Grotius and Pufendorf were natural law theorists. That is to say, they believed that law is not just a matter of declaration or promulgation by particular states and rulers. There are also general, universally applicable laws that our capacity to reason about the nature

of things enables us to discern, and these 'natural' laws provide the general framework within which the positive laws of the land must be tested and limited. It is the existence of such natural laws that makes it possible for the laws of a state to be unjust. It is also natural law, especially as it relates to war and peace, that must provide the foundations of international relations between states. This is because the constitution of a trans-national empire such as the Holy Roman Empire is a 'monster' (to use Pufendorf's subsequently famous description) and there is no sovereign (other than God) to whom the ruler of a nation state is subject. International law, then, comprises two elements. The law of nature is foundational, but it can provide only very general guidance, and accordingly needs to be supplemented by the law of nations, the various pacts and treaties that states make between themselves. Taken together, the law of nature and the law of nations can supply all that is needed for the orderly conduct of international relations.

We can think of the international order, in the absence of world government, as something like the state of nature Locke describes. Individual nation states are autonomous, that is, free to decide matters for themselves. This freedom can be used unjustly, however, as it is when states violate natural law or renege on compacts they have entered into. This possibility presents a danger to other states, especially weaker ones, and a constant threat to international order, war being simply the extreme case of its breaking down. So, just as individuals in Locke's state of nature have reason to surrender some of their autonomy to the 'magistrate', it seems nation states have reason to combine in federal groups that give them both the power and the authority to compel 'rogue' states to act in accordance with international law. The end result, in world society just as in any national society, is a rule of law which constrains a state's behavior in accordance with principles of justice and international agreements, while at the same time leaving the individual nation state with some autonomy of its own.

This extension of Lockean state of nature theory to the international realm is one application of what is sometimes referred to as 'the domestic analogy', and while there is very considerable plausibility in the analogy, it has prompted two important responses. The first ultimately rejects it, while the second questions the extent of its application.

By giving international law two sources – the law of nature and the law of nations – Pufendorf supposes, as do Grotius and Locke, that in addition to such positive laws as states may promulgate, and treaties that nations may make with each other, there are also laws that transcend all historically specific legal systems and are of universal application. In the case of Locke, God is the ultimate author of these laws. In the case of Grotius, the final appeal is to Reason, whose requirements even God cannot change. It hardly needs to be said that in the contemporary world of international relations appeals to God will not serve as a universally binding basis for conduct, and postmodernity has rather less faith in ‘Reason’ than the early Enlightenment world of Grotius and Pufendorf had. But neither of these reservations touches the fundamental question at issue, which is in fact an old one about the applicability of ‘the domestic analogy’. Locke, like Pufendorf, was in part responding to an alternative conception of the state of nature elaborated by the English philosopher Thomas Hobbes (1588–1679) in his major work *Leviathan*, first published in 1651. For Hobbes, the state of nature is governed by natural laws of a rather different kind – namely the laws of human nature. These are entirely egoistic, and a world governed by such laws is one in which there is no distinction between might and right. The result is a constant prospect of destructive conflict, and the only way to avoid it is by a compact which institutes an absolute ruler whose power is unlimited. Such a ruler then determines right and wrong by the promulgation of positive laws, which is to say, authoritative ‘commands’ backed by ‘sanctions’. If Hobbes’s state of nature has an international counterpart then, it is not a federation deriving its authority from natural law and international consensus, but a world government which has the absolute power to impose order on nation states.

Hobbes’s account of the state of nature is one we will return to. For the moment, however, enough has been said about it to make the sharp contrast with Locke’s apparent. Faced with a choice between these alternatives, people’s intuitions vary, but with respect to the domestic case, most tend to agree with Locke. This is because it seems obviously possible to do someone a wrong even where no criminal law has been promulgated against it. Think of the state of nature as the condition of a few people shipwrecked on a deserted island. In such circumstances there is no government and no civil law, yet it seems correct to say that one person could act wrongly against others, for

example, by taking the food they have accumulated for themselves, tying them up to stop them gathering firewood, or killing them to get rid of competitors for the best shelter. If these examples are, as they seem, clear cases of rights violation – the rights of property, liberty and life respectively – it must be *natural* rights that are violated since *ex hypothesi* there is no legal system in place. From this it follows that the state of nature between individuals, exemplified by this imaginary case, is *not* a moral vacuum, but one to which the ideas of right and wrong apply.

What has proved much less plausible to many theorists of international affairs, however, is the further suggestion that what applies in the case of one society can be extended to relations between societies, and that the state of nature between *nations* is also subject to natural right and wrong. According to a school of thought generally known as ‘Realism’, the international order is Hobbesian through and through. That is to say, it is one in which the only concepts of ‘right’ and ‘wrong’ that apply to the actions of autonomous states are those of success and failure. The sole consideration a state should take into account in the conduct of international relations, including international co-operation, is national (i.e. state) self-interest. Realism asserts that relations between states can and should only be ordered by the demands of *realpolitik*. In effect, it denies that there can be anything called ‘ethics in international relations’ at all.

The second type of response is less sweeping than this. It does not reject the domestic analogy completely, but stresses its limitedness. Such a position is actually very close to that of Grotius and Pufendorf. The appeal to natural law (in the conduct of war, for example) is confined to general questions of justice and right. It has nothing to say about moral good and bad more generally. In this sense, the most obvious comparison is not with full-blown moral rules about keeping promises, respecting other people or minimizing pain, but only with the rules of natural justice. These are normally taken to include the following: ‘the innocent may not be justly punished’: ‘no man may justly be judge in his own cause’: ‘criminals may not justly benefit from their crimes’: ‘the severity of the punishment should fit the gravity of the crime’. Such rules are not to be found in statute books. Rather, they are fundamental principles of justice with which the laws that *are* to be found in statute books must accord if they are to be just laws. But they leave out of account altogether a very wide range of conduct

between human beings over which more general moral considerations range, aspects of fairness, truthfulness, honesty and respect for example, that it is not the business of the law to enforce. The difference is evident in the contrast between a contract and a promise, or between treason and treachery. The first has a formal character that the latter does not.

From this point of view, while there is a measure of analogy between the domestic and the international contexts, there is disanalogy also. The actions of nation states are indeed subject to principles of justice because states are composed of individual citizens with an independent moral status of their own. Citizens are not further divided into morally relevant 'sub-units', however. Human beings have beliefs and hopes, they can suffer pain, disappointment and death and these are facts highly relevant to the moral dimension of relations between them. Despite the way politicians speak occasionally, nation states do not have beliefs and cannot be sacrificed, tortured or killed. The domestic analogy is applicable to the international context, but it is importantly limited. Issues can arise in international affairs that there is reason to call 'ethical', but they do not extend beyond a limited range of cases relating to questions of justice and right.

For the sake of a label, I shall call this second position 'Legalism'. Legalism differs from Realism because it makes appeal to natural as well as positive law. At the same time, to call it a 'Natural Law' theory would be misleading. For Thomas Aquinas, for example, natural law is much more substantial and includes positive moral goals that rulers and states should pursue. Grotius and Pufendorf are not usually included in expositions of the natural law approach to international relations (see Boyle, in Nardin and Mapel 1992, for instance), and that is because, though often seen by historians as a Protestant enterprise, today the natural law tradition is primarily identified with Catholic teaching. For Grotius and Pufendorf, the 'law of nations' is not merely an application of the 'law of nature'. It has its own independent authority, and what I am calling Legalism aims to fashion the ethics of international relations out of a dialectical relationship between the two. So we can distinguish a *third* possible position, which I shall refer to as 'Moralism'. This is the view that ethical conduct in international relations goes beyond a limited conception of natural justice and requires a much wider conception of moral responsibility on the part of nation states. Both international agreements and the actions of

states are to be judged in the light of this moral requirement. How the moral responsibility of states is understood and defended varies. Historically, there are several important approaches. One of the oldest is a conception of the duty of the ruler to promote ‘the common good’ in accordance with ‘natural’ law, a conception most closely associated with Thomas Aquinas and articulated in *On Princely Government*. One of the most modern is the extension of Utilitarianism (of the kind expounded by Jeremy Bentham and John Stuart Mill) to the assessment of action in the international realm in terms of beneficial consequences. Between these two lies a conception of rights and principles determined through deliberative reason of a contractual kind. This is the conception we find in Immanuel Kant’s famous essay *Perpetual Peace*, and more recently in John Rawls’s *The Law of Peoples*. Rawls’s ‘Law of Peoples’ is somewhat misleadingly named since it is a moral rather than a legal conception. Like the older conception of natural law, it transcends the law of nations (with which he expressly contrasts it) and its purpose is to ‘reformulate the powers of sovereignty in the light of a reasonable Law of Peoples’ (Rawls 1999: 27).

There are important differences between these the Thomistic, Utilitarian and Kantian approaches to ethics in international relations. of course. This means there will be occasion to consider them separately from time to time. The reason for classifying them all under the single label ‘Moralism’ is that they all aim to prescribe and justify substantial moral goals that foreign policy and international cooperation ought to pursue, and can properly be called upon to pursue. These goals go beyond a stable and peaceful international order among sovereign states. They include such aspirations as the elimination of poverty, the prevention of disease, the promotion of literacy, the extension of democracy, environmental conservation and the protection of endangered species.

Moralism of any kind, whether Thomistic, Utilitarian, or Kantian stands in sharpest contrast with Realism. Both have long pedigrees, but in recent times their fortunes have been reversed. For several decades in the middle of the twentieth century, Realism held sway. In the latter part of the century and up to the present, Moralism has come back into favor and Realism now finds relatively few supporters. This sometimes creates the impression that the choice is one or the other, with the result that Legalism tends to get neglected and even ignored altogether. An important aim of this book is to go beyond the familiar

dichotomy between Realists and Moralists and explore the problems of war, weaponry, terror, intervention, poverty and environment from the Legalist perspective as well.

### Summary

We are generally inclined to think of international affairs as relations between nation states. The origins of this way of thinking can be traced to the settlement agreed by the warring states of Europe in the seventeenth century, a settlement that began the slow process by which international relations ceased to be relations between imperial powers. This process was greatly accelerated by the rise of nationalism in the nineteenth century. Nationalism affirmed the right of every nation to be a sovereign state, but in many places, this affirmation resulted in great conflict, making the twentieth century probably the most war-torn in human history. Even so, the role of the nation state as the fundamental unit in international relations has remained largely unchallenged, chiefly because the internationalist alternatives of imperialism and communism continue to prove unattractive. More recently a cosmopolitan vision of the future has begun to find favor, a vision in which nation states relinquish some of their sovereignty to federal associations of states and/or international institutions, and thereby give political substance to the idea of the international community, even if it does not ultimately lead to a single representative world government.

The claims of imperialism are not without substance, but in the modern world it is cosmopolitanism that must be regarded as the principal rival to the sovereignty of the nation state. Its key element is the doctrine (which it shares with imperialism) that national boundaries are not sacrosanct, and that the laws and policies of nation states can legitimately be required to answer to principles of justice and right that transcend the laws of any one jurisdiction. What is at issue is the authority and scope of these principles. Realism holds that there are no such principles, or at any rate that they can legitimately be ignored or overridden in the pursuit of national interest. Moralism holds that states are morally accountable across a wide range of issues in something like the way individuals are. These include duties to promote peace, combat poverty and protect the natural environment. Legalism

takes a position somewhere between these two, accepting the idea of a law that transcends national boundaries, while denying that states are moral agents in the way that people are. It is the purpose of the next chapter to explore more fully the differences, strengths and weakness of these three positions on the role of ethics in international relations.

*Suggestions for Further Reading*

- John Hutchinson and Anthony Smith (eds) (1995) *Nationalism*. New York: Oxford University Press.
- Elie Kedourie (1961) 'Introduction', in *Nationalism in Asia and Africa*, 2nd edition. London: Hutchinson.
- Terry Nardin and David R. Mapel (eds) (1992) *Traditions of International Ethics*. Cambridge: Cambridge University Press.
- L. C. B. Seaman (1964) *From Vienna to Versailles*. London: Macmillan.