

States and state systems: democratic, Westphalian or both?

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Abstract. Two rival accounts have come to dominate discussion of the origins and character of the contemporary international system. One, closely associated with the English School and the traditional account, places its origins with the appearance, and acceptance, of the centralised authority of the modern state. We might call this ‘the Westphalia version’. In this account, the modern state system is often represented in terms of what it is not. It is not a feudal regnum with a multiplicity of functionally distinct authorities.¹ It is not a theocratic imperium where one power aimed at ‘the control and protection of Christendom’.² It is a society of sovereigns, of *de jure* equals, each of whom accorded the others’ right to exist, and whose common ideological quantum is low. The rival is located within democratic transition theory. It postulates the modern state system as an extension of the *liberal democratic state*. The liberal state is not sovereign in the Westphalian sense: liberal authority is diffuse. Moreover, the liberal state produces its own, distinctive, international impulses that distance it in significant ways from the Westphalian pattern. Both see the state system as ‘produced’ by the state, as an immanent effect of stateness, but the account of the state’s trajectory differs radically.

In the English School canon, international society took shape sometime between the Council of Constance in 1414–18 and the Treaty of Utrecht in 1713. Martin Wight favours the Council of Constance, ‘the last parade of Latin Christendom presided over by an Emperor’.³ Hedley Bull notes the other contenders: the beginning of the Valois-Habsburg struggle in Italy (1494), and the Peace of Westphalia (1648). (Utrecht is, according to Bull, ‘the eccentric view of F. H. Hinsley’).⁴ The critical moment at question is the point at which the state became both freed from external authority and sovereign in its own territory. Wight sees the beginning of that process in the ruins of medieval papal authority; Hinsley sees its end in the full articulation of state absolutism.

This process gave the international institutions with which we are familiar their characteristic shapes. In the canon, Westphalia reshaped diplomacy into a new discourse among legal equals, a discourse whose grammar was informed by a logic of

¹ Hedley Bull suggested a secular incarnation of the medieval model, his ‘new mediaevalism’, but located it primarily in Europe and rejected it, on the grounds that European Union was being powerfully driven by ‘third force’ and traditional *étatiste* ambitions: *The Anarchical Society* (London: Macmillan, 1977), p. 265.

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

³ ‘The origins of our states-system: geographical limits’ in *Systems of States*, ed. H. Bull (Leicester: Leicester University Press, 1977), p. 112.

⁴ ‘The European International Order’, in *Hedley Bull on International Society*, eds. K. Anderson and A. Hurrell (Basingstoke: Macmillan, 2000), p. 172.

interests, understood in terms of *raison d'état*. Alliances lost their religious or ideological character and became neutral mechanisms through which interests were articulated and pursued. The balance of power emerges as a limitation on the violent overthrow of a plural state order, and regard for which became, arguably, 'a duty upon governments'.⁵ War is considered just or unjust, depending on whether it is directed to the reasonable pursuit of interests (just) or to the overthrow of the plural order as a whole (unjust). (English School theorists often consider Napoleon and Hitler in terms of successive efforts to reinstitute a super- or trans-state order, and that inspired by one or other model 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'.⁶ George Sorenson quotes Charles Tilly with approval: 'states have remained recognizably of the same species up to our own time'.⁷ The balance of power, if it throws up different challenges and different constellations of powers, still operates to maintain the plurality of states. (Among Bull's 'same three functions' are preventing the state system from being transformed into a universal empire and preventing states in particular areas from being absorbed by the preponderant local power.)⁸ Liberal imperialism (that more glaring contradiction to the plurality of states) was a paternal interlude, curtailed by the self-evident *pare inter pares* displayed by the imperial masters; and its end 'corrected the anomaly of both sovereign peoples and non-sovereign peoples in the same society of states'.⁹ New entrants, however diverse, are socialised, or disciplined, towards accepting the 'standard of civilisation' developed by the European powers as they expanded the European system into a world system.¹⁰ Diplomacy has retained its Westphalian essences: 'minimizing the effects of friction' and the medium of inter-state communication.¹¹ Even in the nuclear age, war 'has not outlived its historic purpose'; it remains a rational 'instrument of policy', even if 'in relation to a narrower set of purposes'.¹² Changes are registered by changing balances of power, but these are changes on the chess board, not changes of the game.

In Democratic Transition Theory, the opposite maintains. In DTT, we have a distinctive kind of state, the liberal state. It appeared on the scene increasingly from the 1860s. Democratic states don't fight wars (at least not with one another) and they don't balance, they bandwagon.¹³ Their impulses are cooperation and institution building. Moreover, it is liberal societies – social forces – that tame rogues, not interstate balancing.

⁵ Hinsley, *Power and the Pursuit of Peace*, p. 160, quoting Fenelon's *Telemaque* of 1690.

⁶ *Ibid.*, p. 153.

⁷ 'Sovereignty, Change and Continuity in a Fundamental Institution', in *Sovereignty at the Millennium*, ed. R. Jackson (Oxford: Oxford University Press, 1999), p. 172; Sorenson is not English School, but is sympathetic to the Westphalia version; Jackson is both.

⁸ Bull, *The Anarchical Society*, p. 116.

⁹ Robert Jackson, *The Global Covenant* (Oxford: Oxford University Press, 2000), p. 126.

¹⁰ Bull and Watson, in their conclusion to *The Expansion of International Society* (Oxford: Oxford University Press, 1984) pp. 429–30, although they also argue that the new members are 'less united by a sense of common interest in a framework of rules and institutions' than the European powers were.

¹¹ Among the five purposes detected by Bull, *The Anarchical Society*, pp. 170–2.

¹² *Ibid.*, pp. 189–96.

¹³ Ken Waltz introduced 'bandwagoning' in *Theory of International Politics* (1979); the notion that liberal states might be particularly prone to bandwagon was first suggested by Stephen Walt in *Origins of Alliances* (Ithaca, NY: Cornell Press, 1987).

The liberal order yields quite a different set of international institutions. War in a liberal regime is outmoded, and the balance of power is the retrograde device of an *ancien régime* that ignored (because it was *ignorante* of) modern citizens' well-being. 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 which site the behavioural codes integral to a liberal order. These liberal practices de-centre the state and displace the state-centric view. Liberals insist that it is plural impulses operating above and below the level of the state that should attract our attention.

It is pointing us to, if we have not already arrived at, a *post-Westphalian order*. If in the Westphalian order the ideological quantum is low, in the post-Westphalian order, the 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 overruns 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 interstate *gesellschaft*, and it is dynamic, not static.

These two accounts, between them, might seem to cover most of the possibilities for any discussion of international order. A system must be either Westphalian or post-Westphalian. It must be either state-centred or society-centred. States must either balance power or bandwagon. Change must be either exogenous or endogenous. Between Westphalian orders and liberal orders, it would appear that we must choose.

But it is not necessarily so. There is actually another possibility, one just visible in their confluence. The third possibility is one of change, as DTT maintains, but change *within the Westphalian order*. In such an arrangement, the state and sovereignty would still matter. It would still be an interstate order and the anarchic order might well have independent effects. But in this account, *the state changes*, and those changes *also have their effects*. They do not overthrow the Westphalian order, but they alter its dynamic. The anarchical society still exists, and it might well limit state choices, more than liberals would care to admit, but less than the English School would like to suppose. In the third possibility, Hedley Bull's classic international institutions would still be recognisable: diplomacy, war, and international law would still exist. But their content, and even form, may have altered, 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 international order from 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. Ernest Gellner, Michael Mann, Charles Tilly, Theda Skocpol, different as their emphases may be, are each as insistent on the uniqueness of sovereignty and its modernity – on its differentiation from tribalism, ancient empire or medieval theocracy – as any advocate of the Westphalia version could wish.¹⁴ They point out, however, that the state is not always and everywhere the same thing (for instance,

¹⁴ See, for example, Michael Mann, Jon Hall and J. Baechler, *Europe and the Rise of Capitalism* (Oxford, Blackwell, 1988), Ernest Gellner, *Conditions of Liberty* (London: Allen Lane, 1994), Anthony Giddens, *The Nation-State and Violence* (Cambridge: Cambridge University Press, 1985); see also Stephen Hebdan, *International Relations and Historical Sociology* (London: Routledge, 2003).

Tilly's integrating 'coordinating' state and his 'late developing state'; Mann's early modern state and his 'fully articulated' state). 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 not be the same thing today as 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 suggest the variability of international society drawing on the changing historical forms of the state, and the state primarily in Europe (since it was the European order that is generally credited with producing an international society). It will consider the historical state in terms of its constitutive social as well as political institutions. They will be used to identify the different sorts of states that have successively dominated the Westphalian moment, and the differing configurations of international society that those different sorts of states have produced. There is no suggestion here that the state changed itself, nor will any account of causes be attempted.¹⁵ The exercise is one of typology and abstract modelling, 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. It will conclude with 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 straightforward business. Historically, states on the North Atlantic fringe developed in advance of other states, with the result that autocratic government in the West showed evidence of 'modernity', secularism and social participation while autocracy in the East was still insisting on divine right and opposed to any participation in absolutist rule. Equally, the cabinet government that began to emerge in Central Europe from the mid-nineteenth century was a copy of much earlier British, then French practice, and the Italians did not adapt to it until after the union of Italy in 1870.

There is also the distinction between governing form and socioeconomic 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 squirarchy of owners with tied labour allowed autocracy much more freedom in governing choices. With regard to the emergence of the liberal democratic state, Nicos Mouzelis observes that Greece, and other countries of Europe's southern littoral, had the outer form of liberal democracy before they had the support structures of liberalism.¹⁶ It took a long time for them to become liberal, if indeed that transformation has yet been accomplished.

But we do have one major resource in identifying critical transformations: alterations in the practice of diplomacy itself. Diplomacy is an institution of state,

¹⁵ Hebden provides a review of potential causes in *International Relations and Historical Sociology*.

¹⁶ Nicos Mouzelis, *Politics in the Semi-Periphery: Early Parliamentarianism and Late Industrialization in the Balkans and Latin America* (Basingstoke: Macmillan, 1986).

and its alterations signal, and can be used to identify, different articulations of the state. When Canning declared, after the 1815 settlements, that British financiers ‘ought not to carry with them the force and influence of the British government’,¹⁷ we may sense that a new moment had arrived in the Westphalian order. When, in 1917, President 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.

What these moments are reflecting are changes in the most fundamental aspect of the state: the locus of the public power. The most significant trajectory in the modern state’s development *as a state* is the gradual movement of sovereignty from its locus in a relationship between the sovereign and a divine order, to its repository in a constitution and, effectively, in a parliament, to its repository with a general or popular will. The movement of sovereignty from a descending theory, from a Divine Right monarchy, to an ascending theory – from ‘people’ to government – was generally mediated via a parliamentary locus, and suggests a triad of state types. Accordingly, it recommends those distinctions outlined by Gianfranco Poggi in his classic introduction to the development of the modern state.¹⁸ Poggi stands out among historical sociologists for a focus on internal institutional arrangements and constitutional law, no less than state-society relations, in depicting the development of the modern state.¹⁹ Following Poggi, I will distinguish the absolutist state, the ‘kabinett’ state which emerged in the nineteenth century, and the liberal democratic state. I will then suggest some broad characteristics of the kind of society of states each constituted.

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 theoretic challenges to its authority, either from within the realm, or from without. They were, in effect, ‘bound and regulated by nothing but the limitations and the egotisms of the individual states’.²⁰

The monarch in his person was still religiously sanctioned but rule had, in effect, become territorial. The causes of this shift are variously assigned, from exhaustion

¹⁷ *Parliamentary Debates*, 15 June 1824, p. 1404.

¹⁸ Gianfranco Poggi, *The Development of the Modern State* (Stanford, CA: Stanford University Press, 1978).

¹⁹ For this reason, perhaps, Hebden does not include him in his account, but Poggi also explains why ‘sociology today cannot draw from its own tradition enough of what it need to come to grips with the problem of the state’: *The Development of the Modern State* pp. ix – xi.

²⁰ Hinsley, *Power and the Pursuit of Peace*, p. 173.

with religious disputation, to the burgesses' dependence on centralised authority to convert tied wealth into moveable capital.²¹ But in respect of 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 those of Louis XIV. Whereas the first, '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.'²² In 1776, Frederick the Great, that Machiavelli of his time, advises that 'a village on the frontier is worth more than a principality 60 miles beyond it'.²³

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'.²⁴ But dynasty remained the linchpin of a system of privileges through which the new absolutist state was being shaped, and it could not by any means be ignored: in the new dynastic systems, local prerogative was being exchanged for privilege at court. The formerly independent locals were in effect being rewarded with those 'luxury baubles' that may have been in the circumstances more valuable than the 'privileges' they were abandoning.²⁵ Also, the new aristocracy, no longer able to raise arms or administer, 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, dynastic ambition remained a central articulator of state interests. This amalgam allowed the author of the New Cambridge Modern History to state with confidence that, of the three chief wars of the first half of the eighteenth century, such wars only occurred 'when matrimonial arrangements had failed or become inextricably confused'.²⁶

Historians of civil society generally credit the 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* there is little evidence. The absolute state was remote from society and viewed it, in Poggi's characterisation, 'as peopled by *particulars* . . . subjects, taxpayers, potential military draftees, etc. but . . . unqualified to take an active part in its own business.'²⁷ Even in Britain during the eighteenth century, court and merchant stood at a great distance from one another. Poggi characterises absolutism's attitude to civil society as simply a 'suitable object of rule'.

²¹ Hinsley prefers the former, Poggi the latter: Poggi, *Development of the Modern State*, pp. 63–4.

²² Hinsley, *Power and the Pursuit of Peace*, p. 169.

²³ Cited by Meinecke, *Machiavellism* (London: Routledge & Kegan Paul, 1957), p. 318.

²⁴ *Machiavellism*, pp. 281–2.

²⁵ Ernest Gellner observes that, under absolutism, 'a tail of retainers ceases to be of much use, indeed their deployment is forbidden, while baubles constitute a more liquid and storable as well as a more acceptable and effective form of wealth': *Conditions of Liberty*, p. 62.

²⁶ J. O. Lindsay, *New Cambridge Modern History*, vol. 7, 'The Old Regime', p. 166.

²⁷ Poggi, *Development of the Modern State*, p. 78.

It was not one to which, however, it was indifferent, particularly in its *economic* pursuits. The effective wealth basis of the absolute state 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 the product found its way into the state treasury. Britain in particular was viewed as a nation 'animated by private interests'.²⁸

In this respect, the 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. That contemporary observer, Kant, 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.'²⁹

In its first phases, the mercantilist effort was directed to making uniform and 'national' what had been the prerogative of district, town and guild. Through transforming local restrictions into uniform regulative codes, capital was released and domestic enterprise encouraged. Exploitation of empire proceeded along the same lines, and the initial search for 'metalls' was supplemented and then surpassed by trade in, and the creation of markets, for silks, rum, salt, sugar and spices. The state deliberately positioned itself as the patron of the new enterprises, licensing them and contributing to 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 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. Foreign trade was credited by contemporary political economists as the wealth basis of the more powerful mercantile states;³⁰ and an increasingly large percentage of state expense was put towards increasingly costly international ventures. Companies paid for exploitation rights, set up factories and cajoled 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

²⁸ Comte d'Hauterive, propagandist for the French revolutionary council, analysing the 'new situation' faced by France and the critical role of Britain's economic orientation: *On the State of France at End of Year VIII* (1800), as quoted in F. von Gentz, *On the State of Europe before and after the French Revolution* (London: Hatchard, 1802).

²⁹ 'The Idea for a Universal History', in *The Philosophy of Kant: Immanuel Kant's Moral and Political Writings*, ed. C. J. Freidrich (New York: Modern Library, 1957), pp. 127–9.

³⁰ See, notably, Roger Coke's, *England's Improvements* (1675) and *A Discourse of Trade* (1670).

latter operating within foreign kingdoms. In effect, imperialism had become *colonialism*, and colonialism concerned itself more with exploitation than possession. Company traders lived at their ease in foreign ports and foreign courts, adopted the dress and many of the manners of their hosts, and rewarded them with such new contrivances from the West as might amuse them and secure their complaisance.

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 'interest' in the Near East and India, consuls were more numerous than ambassadors, and while not 'courtly', overlapped their functions and carried out others if anything more central. They were paid by trading companies, whose service they entered into for life. But they also acted in the monarchical interest and effectively served as crown agents and diplomats in those kingdoms and territories with which European monarchs had not yet concluded formal treaties and which were therefore not part of the European diplomatic system. (A French ambassador to the Porte resided alongside English, Dutch and Spanish consuls, since France, singularly, had concluded treaties with the Porte.) Such dual service would scarcely have been possible had not the interests of merchant and crown 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, the major distinction being the sources of their remuneration. Consuls began their careers as company apprentices and they paid for their apprenticeships, which became increasingly costly as companies accrued wealth.³¹ Ambassadors were paid, not generously, out of the exchequery, and they were expected to support any extraordinary costs. Such posts bestowed honour, gave opportunity for personal enrichment, and, in the case of the latter, 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 imprisoned 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 issue of border demarcation or status of a town, were pawns in a zero-sum game in which each struggled to gain an advantage that, lost, would assuredly benefit a rival. If each interest was in itself small, each was also large in 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'.³² The slightest acquisition abroad, the slightest advance by one state as against another, mattered when the fulcrum of the state was absolute rule and mercantile advantage.

War was a function of interests; either merchant or monarchy/in/the 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 directed willy-nilly. The War

³¹ Consuls were paid according to the amount of carriage they facilitated; see D. B. Horn, *British Diplomatic Service* (Oxford, Clarendon Press, 1961), p. 243.

³² Hinsley, *Power and the Pursuit of Peace*, p. 177.

of Jenkin's Ear was as much war as the somewhat weightier hostilities of France and Britain in the New World. War as a conceptual category under absolutism did not distinguish between major and minor, police action or coercive diplomacy. The fading category was 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 the defining characteristic of war itself. In the eighteenth century, war was what states did and almost any state use of force was denominated as war.

Borders within Europe, whose chief feature in the post-medieval period was porousness, became paradoxically increasingly so after the Wars of the 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'³³ and they became easy prey to states whose fundamental rule 'is the principle of extending their territories'.³⁴ The Ottoman habit of transferring whole villages with their special crafts to other parts of the empire took the form in the more advanced West of gaining towns without essentially changing their structures and succeeding them in return for richer pickings, resulting in 'a swift winning and losing and exchanging of territories'.³⁵

In such circumstances, alliances could not but be temporary and in a state of turmoil. Each state abrogated for itself the right to make, and break, alliances at will, all under the notion of *raison d'état*. 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; and it 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 by the emerging international law of the time. In 1758, Vattel published his *Le Droit de Gens*, laying to rest Wolff's idea that Europe constituted a form of *civitas maximus* (not to mention Grotius' Christian commonwealth). Vattel declared that 'each independent state claims to be, and actually is, independent of all the others';³⁶ and he deduced the law of nations, not from 'the fiction of such a republic', but from practice, from what states actually did. It became the authorised text of absolutist diplomacy.

Cabinet diplomacy

By the beginning of the nineteenth century, the idea of the state had emerged as 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'.³⁷ (Poggi speaks of the *near identity* between the state and its law that developed during the nineteenth century.) In comparison to the absolute state, the

³³ Ibid., p. 177.

³⁴ Meinecke, p. 301, quoting Frederick the Great's advice to rulers of 1743.

³⁵ Ibid., p. 301.

³⁶ Emmerida de Vattel, *Law of Nations* (Washington: Carnegie, 1916), p. 9a.

³⁷ Poggi, *Development of the Modern State*, p. 101.

constitutional state takes form fully as a product of *ratio*, not of *voluntas*. In turn, power is depersonalised; the state becomes a formal hierarchy of offices and the state's business is conducted more and more on the basis of matter-of-fact judgement and less and less on 'brawn, ceremonial pomp and war-like display'.³⁸ All the states of the European order were scarcely constitutional in the sense of limited monarchy, much less constitutional guarantees. But even Russian absolutism was bowing to the idea of a legal state in which the absolutist monarch was accordingly recast as a hallowed caretaker.

In terms of governing formula, 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, as far as Japan and even China, were firmly pushed into the background and government passed into the hands of small groups of men who, even where absolutism had not been displaced, were only by courtesy monarchical servants. Palmerston and even Talleyrand, not to mention Metternich and Bismark, were more important than their kings and they directed cabinet systems that had largely tamed their kings. One might, indeed, characterise the period as one of cabinet government.

The Napoleonic Wars, and the need for an agreed Restoration to contain France, no doubt was the spur for concerting. But concerting, 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. Less has been made of its novelty (absolutist monarchs had displayed little sympathy for even 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 imagination, picture ministerial encounters at the numerous congresses that proceeded through the nineteenth century where, beside the diplomatic business of the day, the European cabinet corps might well have exchanged notes on controlling the monarchical impulse.

Parliaments had become the seat of the sovereign will, but they represent not so much constituents as the state itself. Cabinets are drawn from them and their business is (continuous and public) law-making. Parliamentary prerogatives are absolute, and any notion of traditional prerogative is 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 parliamentary sanctioned positive law; and the making (and enforcing) of that law becomes the very expression of the constitutional state. 'Le parlement', observes Tocqueville 'en meme temps qu'il est corps legislative, est corps constituant'.³⁹ As sovereign, Parliament also knows no limitation; positive law enacted by parliaments can 'orient and empower an indefinite variety of acts of rule'.⁴⁰

A civil society, now termed a public, had emerged in full glory but it was a limited one, made up in both civil and political terms of property owners and the educated.

³⁸ *Ibid.*, p. 109.

³⁹ Alexis de Tocqueville, *De la Democratie en Amerique*, Part. 1, ch. 6.

⁴⁰ Poggi, *Development of the Modern State*, p. 111.

The citizens related to one another formally in terms of abstract legal codes whose enactment was the duty, and indeed, in some conceptions, the ‘principle object’, of the state.⁴¹ 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 judicial and law enforcing 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 through Europe following the Napoleonic wars, and generally pictured the diverse strata 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 stories; and much was made of different religious traditions and their contribution to individual national traditions. But of the religious interest *per se*, this had faded from the scene. Gunpowder plots and religious intrigue aimed at unseating kings were not a major concern of the nineteenth century constitutional order. If anything, it was of a ‘public’ capable of intense arousal, particularly in respect of foreign adventures and financial scandal which could implicate government.

The economic interest had become much wider, uniting a fast developing industrial interest with the older mercantile interest. Given the rapid rate of domestic industrial growth of the industrial leaders, the balance between the two 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 Great Exhibition of 1851 was an exhibition of developed national products and colonial manufactory, not of traded primary goods. Moreover, it was widely recognised that home-grown wealth was as important in the contest of states, and procuring their interests, as externally produced goods. (Indeed, if under classic mercantilism adventurers were freed of domestic restraint, increasingly under industrialisation imperial ventures were regulated according to the needs of domestic producers, and the more advanced domestic producers, not *vice versa* as had been the case under mercantilism).

These developments underpinned, and confirmed, a notion of state wealth as a public resource, not a private attribute of the crown, and they altered notions of its source. ‘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’.⁴²

The developing legal order, the matter-of-fact deliberation of policy and the growing industrial interest had other consequences, not so benign. For one thing, colonialism found its limits.

As noted under absolutism, empire had altered from dynastic possession of ‘lands’ to piecemeal and scattered possession of colonies and ‘factories’. Increasingly during

⁴¹ Ghita Ionescu, ‘The Themes of Liberal Constitution’, in *Constitutions in Democratic Politics*, ed. V. Bogdanor (Aldershot: Gower, 1998), p. 35.

⁴² Poggi, *Development of the Modern State*, p. 97.

the nineteenth century, however, colonial possession came to be seen as an attribute of a metropolitan economy that was increasingly *visualised as a whole*; and colonies were increasingly exploited as integral parts of single productive systems. Also, with the growth of civil society, many citizens gained a hand 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 a ‘national’ question and a subject of political competition among missionaries, mappers, entrepreneurs, companies and armies.

Both demanded deepening colonial rule, if only to reconcile competing demands, and involved interfering increasingly 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 ‘civilisation’ extended itself to the imperial venture. The language of nineteenth century imperial management turned on a new category of differentiation, not of religion but not yet of regime type. Its central distinction was the civilised versus the barbarian kingdom. The civilised kingdom allowed reciprocity, recognised the public 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 its citizens and refused the strictures of its developing commercial law.⁴³ In return, they did not enjoy protection of the public law of Europe, and were prey to intervention and colonisation. (‘Civilised kingdoms’ were increasingly incorporated into the diplomatic system of Europe; by the late nineteenth century, Britain had raised consular officials to the status of official legations in both Thailand and Japan and was attempting, without success, to establish diplomatic relations with China. The movement was critical since proper diplomatic status implied ceasing untoward intervention.)

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 was confined to ambiguous areas which had not yet been assigned to one imperial master or another (hence, the centrality of the Eastern Question, the conflict for Persia, the Great Game between Russia, France and Britain in the Indian subcontinent, and the Afghan wars). The more serious, and extensive, use of state arms during the nineteenth century occurred *within empires*, where it was required to ensure domestic peace and quell internal revolt. International war, in consequence, declined.

The idea of a public law of Europe spread, but this was not to be understood in terms of the subordination of any state’s legal order, rather as the idea of common codes that all civilised states observed. ‘The most it could aim for – it was no mean aim – was that [states’] rights would be exercised with restraint and within a framework of law and responsibility that would deepen and expand by consensus and general agreement.’⁴⁴ Given the absolute locus of political authority within Parliaments, and the expression of that authority in terms of law-making, no other

⁴³ The distinction was shared both by the more conservative Lorimer and the more liberal Hall: James Lorimer, *The Institutes of the Law of Nations* (London: Blackwell, 1883–4), and William Edward Hall, *International Law* (Oxford: Oxford University Press, 1880).

⁴⁴ Hinsley, *Power and the Pursuit of Peace*, p. 236.

conception was possible. It reached its height with the Hague codes on the laws of war; and it was brought 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 suffrage 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 accountable through periodic elections. The contractual process becomes, in many cases, long and drawn out, and is invaded by many organised actors and interests. The precise locus of sovereignty becomes, accordingly, more difficult to determine. 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.⁴⁵ Its clearest expression becomes, in fact, 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 cabinet legitimating itself through the acts of a sovereign parliament to an executive legitimating itself directly from a '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, organised via the electorate, and party is more expressive of a 'mood' or broad ideological orientation than an open-ended coalition reflecting one or other constitutional position. Poggi makes the telling contrast between the nineteenth-century parliament's critical role as the *autonomous* mediator of diverse 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'.⁴⁶

The democratic state ceases speaking the abstract and general language of law favoured by the constitutional state. The causes for this may not be immediately obvious, but reveal themselves to closer scrutiny. On the one hand, there are the struggles for political (and social and economic) participation by under-privileged strata, the conditions for which cannot be provided by 'formal and contentless considerations of procedural correctness'.⁴⁷ Just as relevant, however, are new agglomerations of economic power, the new public corporations and joint stock companies and the new 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'.⁴⁸ Nineteenth century legal codes become a

⁴⁵ Laski first published *Studies in the Problem of Sovereignty* in 1917; the latest edition is that by Paul Hirst (London: Routledge, 1997).

⁴⁶ Poggi, *Development of the Modern State*, p. 141.

⁴⁷ *Ibid.*, p. 132.

⁴⁸ *Ibid.*, p. 132.

source of contestation, and democratic governments are required to tack and turn to incorporate and pacify new social entrants. 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 policymaking by governments, and the governing process becomes a process of policy cycles initiated and carried out over fairly protracted time spans, in many cases covering more than one electoral cycle.⁴⁹ Law re-emerges, but in service to policy, and it is a very different 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, nor is it the history of parliaments. It is the history of governments and the fate of their policies.

The displacement of law by policy, and by policy in the hands of an executive that 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 executive power 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 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, on collective bargaining, on 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, labour, industrial, social) which 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 functionally dependent on the state, and, in effect, much more coextensive with the state, and the state 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 purely cultural. It is its *utilitarian* expressions which matter more, and these become identified, variously, with economic growth (to support the welfare claimant), technological development (increasingly identified as the critical component of growth), and the specified body of rights which 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 – indeed, quasi-polities, with internal rules for their employees and codes of practice, with internal systems of representation and formalised procedures of conflict

⁴⁹ The first analysis of the ‘policy process’ and its implications for government is often credited to Woodrow Wilson, ‘The Study of Administration’, *Political Science Quarterly*, 2 (1887), pp. 197–222.

resolution, allowing political science to include the 'politics of the firm'.⁵⁰ They are served by a stock market, which, albeit increasingly regulated, is a public non-state instrument for raising investment funds. Companies are not footloose for the majority of cases, but their productive systems overlap the borders of states and they grow to enormous proportions. By the end of the twentieth century, more than one-third of world trade is made up of intra-firm trade.

Copying the bureaucratic structures, the administrative habits and the citizen-treatment models of the state, at various times the state returns the favour and copies them. Most advanced states at various times set up their own industrial enterprises.

They need much less immediate government servicing that their nineteenth-century counterparts did. They provide many of their own needs, including investment and innovation. They educate and socialise their employees. They even provide some elements of their own security. What they need from the state are peace, regularised 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.

Of their relations with the democratic authorities, they are in several senses rivals. First, they are potential competitors in struggles to structure the public domain. The interests of the democratic state and capitalism do not always coincide, and when they do not, each has a formidable arsenal in respect of the other. These will be mobilised most visibly at times of economic depression, at periods of growing international hostility and at periods when governments propose some fundamental revising 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 rather 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 outside the legal order, the economic force is much the most formidable.⁵¹

Those who suspect a closer, more intimate relationship would also however 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 large firm as the major provider of economic well-being – allows economic forces to influence the state itself, either by not 'interfering' with their activities, or by placing some of its faculties of rule, as well as potentially considerable public resources, at their disposal.⁵² The state also begins to share some of the specifically technocratic and economic 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

⁵⁰ Of that title, L. J. Tivey (Oxford, Martin Robertson, 1978); see also S. Minett, *Power, Politics and Management in the Firm* (Aldershot: Avebury, 1992).

⁵¹ 'Liberty, on the other hand, is impossible without pluralism, without a balance of power. As it cannot be political, it must be economic'; E. Gellner, *Conditions of Liberty*, p. 88.

⁵² Both processes were identified by Charles Lindblom, *Democracy and the Market System* (Oslo: Norwegian University Press, 1988).

stage in the policy process. It also means ongoing scrutiny of ‘foreign’ developments with a view to their effect on internal policy.

In this process, the executive, freed from both constitutional constraint and fixed legal principle, has a relatively free hand. It can hand 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 a common quantum of sulphur in matches.⁵³ Once parliament is no longer ‘sovereign’, once the law has been broken up into particles or pieces, once the day-to-day task of government is policy elaboration, this is no longer difficult. International administration becomes simply another aspect of domestic administration, so long as the policy objective is generally agreed. (Lindberg has referred to this qualifier as ‘the permissive consensus’, indicating relative indifference with modalities so long as the policy objectives enjoy social consensus.)⁵⁴

State competition does not thereby cease. States continue to compete: they compete for growth and they compete to set the terms of cooperation. But their competition is largely a routinised 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 characterisation of this kind of competition. He noted that among utility seekers, there would be rivalry but not enmity.

Enmity is reserved for states outside this process. In effect, enemy states become those who do not share the largely work-a-day, utilitarian, policy-oriented conventions that are the meat of the liberal democratic state. In the terms of democratic transition theory: ‘Once liberals accept a foreign state as a liberal democracy, they adamantly oppose war against that state. . . . War is called for only when it would serve liberal ends – i.e., when it would most likely enhance self-preservation and well-being. . . . Illiberal states, on the other hand, are viewed *prima facie* as unreasonable, unpredictable, and potentially dangerous.’⁵⁵ In the more succinct language of constructivism, the enemy becomes ‘the other’.

War is, accordingly, outmoded as a normal instrument of state relations; that is, in relation to the ordinary business of the liberal democratic state in relation to other similarly constructed states. War is reserved for the highest questions of national-well-being, and revolves necessarily around state type. Fritz Fischer identified the basic structure of democratic wars when he assigned the causes of the First World War to the inner, and unreconstructed, nature of Wilhelmine Germany.⁵⁶

Change and the Westphalian order

In any account of the social structures which underpin international order, getting to grips with the state is the alpha and the omega of the enterprise. The account above

⁵³ *The Rise of the International Organisation* (New York: St. Martin’s Press, 1982).

⁵⁴ L. N. Lindberg and S. Scheingold, *Europe’s Would-be Polity* (Englewood Cliffs, NJ: Prentice Hall, 1970), pp. 156–7.

⁵⁵ Jack Owen, ‘How Liberalism Produces Democratic Peace’, in *Debating the Democratic Peace*, eds. M. Brown, S. Lynn-Jones and S. Miller (Boston, MA: MIT Press, 1996) pp. 124–5.

⁵⁶ *Germany’s Aims in the First World War* (1961).

draws on an historical sociology, but one which is institutional in its focus, as opposed to economic or social-force oriented. It also pays the closest attention to the locus and expression of the *public power*, to how that power is organised and generated, with the clear implication that the public power cannot be reduced to a congeries of social forces or to an organisation of production.

The test of such a focus is what it delivers in terms of the specificity of social types. Given that change within the Westphalian order is obvious, given that we can abstract some of the central features of those changes and postulate their consequences for international institutions and diplomatic methods, do they point to something essential? Or do they rather conceal the essentials? Realists 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*. Liberal eschatologists will be equally sceptical, but on rather different grounds. They would argue against these *still being states*. They would argue that the continuing focus upon the state during the liberal era conceals the degree to which society under liberalism has broken free of the state. (Poggi notes the Marxist variant: 'with so much homogenising and hegemonialising in fact done by the capitalist economic system, what is there left for the state to do?')⁵⁷

I will posit one modest and one rather grander answer. On the modest end, such models suggest that we should limit the search for essence and concentrate more on form. Some English School theorists are wont to argue that the economic diplomacy now prevalent among industrial states is not 'true diplomacy' – that it does not partake of the essence of diplomacy.⁵⁸ But the point for those interested in social forms, and particularly for those interested in the historical nature of international social forms, economic diplomacy is precisely such a social form; and the relevant question for the social historian of diplomacy is not whether it is 'true diplomacy' but 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, social and political, endeavours that the democratic state must entertain. Equally, with regard to liberal rights, if rights are a changeable quotient within the state, if their essence is disputed, and if liberal contracts are liable to fairly continuous revision, then the question surely to ask is not what rights are primordial, but rather what work they are doing.

The grander answer takes off from the more modest, and suggests the necessity of notions of an overall structure to evaluate particular social practices. 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', it is not possible to appreciate their significance. There is no satisfactory way of evaluating specific social forms except in relation to a social order that gives meaning and significance to those forms. There would be no point to studying the movement of rights, or the presently popular 'identity formation', if we

⁵⁷ Poggi, *Development of the Modern State*, p. 121.

⁵⁸ See, for example, Sasson Sofer, 'Old and New Diplomacy: A Debate Revisited', *Review of International Studies*, 14:3 (1988); and Bull, for whom economic diplomacy is in danger of representing sectoral interests only, or, if an authentic national voice, of a technical nature, concerned only with 'finding the most efficient means to a given end' in which guise it often conceals what remain diverse interests which require bargaining and conciliation; that is, diplomacy; *Anarchical Society*, pp. 176–7.

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 still concerned the rights of different strata of society, not of individuals. The question of individual rights only becomes relevant in a society that is no longer organised in terms of fixed strata or where individuals are no longer seen as commanded by heavenly writ.

The function of the notion of change in political types is that it alerts us to alterations in 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 different species. Just as there is the genus mammal and many species of it, 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, Italian city states, or Indian tribes, while setting out the defining characteristics of the genus type. Sovereignty, understood in terms of the origins of positive law, territoriality, rule over territory – not rule of persons, and *raison d'état* (albeit of very different estates) are those characteristics and they mark the genus, not the species. If one finds these characteristics inadequate to a full understanding of any given international order, this is not surprising. The fuller account is provided by the species, not the genus. Tribes and empires also exist in different forms, and within variable social structures.

Recently, some advocates of the English School approach have sought to elucidate the meaning of Westphalia by a focus on its diplomatic institutions. Notably, Barry Buzan has recently constructed a hierarchy of first and second order international institutions, the latter being the variants of, or possibilities inherent in, the first, and which allows for a variable typology.⁵⁹ This is a brave effort, but it has limits. First, it identifies Westphalia with its institutions, instead of its *governing rules* (a category confusion between the species and the genus). Secondly, changes in social structure do not obey linear rules; they do not evolve in a tidy fashion and they are affected by broader social changes. This means, among other things, that institutions will not have a continuing existence – that some will die out, just as the consular system died out, while others will be invented, as economic diplomacy in its modern form has been invented. And they do this because, in biological terms, they are part of the evolution of the species, not marks 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 the evacuation of the genus. It may be that the present age is leaving the Westphalian order behind. But that is not an argument which can be based on differences in social structure, much less social habits. Rather, one must look to the category rules. And the requisites of the latter are not ‘revisions’ in the idea of sovereignty, much less that sovereignty is being ‘relocated’. Both are integral parts of the story of Westphalia

⁵⁹ *From International to World Society: English School Theory and the Social Structure of Globalisation* (Cambridge: Cambridge University Press, 2004).

itself. Leaving Westphalia 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 organising 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 strenuous than most of the arguments so far proposed. When Democratic Transition Theory meets the English School, there are also lessons for DTT.