

# Modern sovereignty and the non-Christian, or Westphalia's Jewish State

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## Abstract

This article participates in efforts by IR theorists to clarify aspects of modern sovereignty – an idea currently in rupture and being rethought – by returning to its founding ‘Westphalian moment’. While recent work has reconnected modern sovereignty to religion, considering Westphalia as a religious settlement and Christian concerns persisting in the groundwork of IR, our work looks beyond Christian concerns and asks how Westphalian sovereignty addressed non-Christians. We trace a yet-untapped discussion of the Jews – presented as a paradigmatic religious ‘other’ – among architects of Westphalian sovereignty from Bodin through Grotius, Hobbes, Harrington, and Spinoza. We demonstrate that foundational theorists of modern sovereignty considered religious diversity a political problem. Some cited essential sameness, minimising difference between Jews and Christians. Others considered the possibility of Jewish sovereignty long before this idea is usually considered to have entered modern consciousness. While the discussion of Jewish sovereignty among architects of modern sovereignty may seem to justify a Jewish state in a world of Westphalian states, it also emphasises Westphalia's territorialising of religious difference. This aspect of the Westphalian framework is surely inadequate today, when territorialising religious difference is neither normative nor likely possible.

## Keywords

Sovereignty; Westphalia; Religion; Hobbes; Bodin; Spinoza

## Introduction

Recent work in International Relations (IR) theory has convincingly argued that: (i) Westphalian sovereignty was attractive in the sixteenth and seventeenth centuries as a solution for overcoming religious crisis brought on by the reformation;<sup>1</sup> and (ii) Later secular and even secularist agendas of Western politics are grounded in Christianity.<sup>2</sup> Insofar as this work locates the foundations of – and agendas behind – contemporary IR in religion, it seems to mark a new phase in the unfolding of IR as a

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<sup>1</sup> Daniel Philpott, ‘The religious roots of modern International Relations’, *World Politics*, 52:2 (2000), pp. 206–45.

<sup>2</sup> Elizabeth Shakman Hurd, ‘The political authority of secularism in International Relations’, *European Journal of International Relations*, 10:2 (2004), pp. 235–62.

discipline. If it was once commonplace that religion lies beyond the scope of IR theory, based on the understanding that state actors replaced religious actors in foreign affairs at the Westphalian moment,<sup>3</sup> today IR theorists recognise religion in the groundwork of the Westphalian order currently in rupture, and at the same time find that religion – subverted, governed, and human – cannot be set aside by the discipline as it looks towards the future. At this opportune time of a perceived ‘return of religion’, IR seems to be equipping itself with new understandings of religion and world politics.<sup>4</sup>

This article seeks to address an apparent gap in the literature, which returns to what has become known as the ‘Westphalian moment’ in order to gain a better understanding of International Relations today.<sup>5</sup> We focus particularly on the literature that connects – or reconnects – Westphalia to religion. Analysed as a religious settlement, Westphalian sovereignty emerges – particularly from Daniel Philpott’s work – as a settlement between Christians, resolving Christian strife, not looking beyond Christian concerns.<sup>6</sup> Yet, today, the perceived ‘return of religion’ to politics includes not only a return of Christianity or a new appreciation of its place, but also non-Christian religion entering the ‘Westphalian’ or ‘post-Westphalian’ order, and the challenges ‘foreign’ religious concerns present in a world guided by Christian ideas.<sup>7</sup> Here we examine the foundations of modern IR with a new question, begged by the current literature: How were non-Christians viewed at the Westphalian moment, and specifically how were they conceived as fitting in – or not – to the world of Westphalian states?

The article argues that non-Christian religious difference was viewed not unlike Christian religious difference by key thinkers at the Westphalian moment, namely as conflict-inducing and dangerous,

<sup>3</sup> Jonathan Fox, ‘Religion as an overlooked element of International Relations’, *International Studies Review*, 3:3 (2001), pp. 53–73 (p. 55); Hurd, ‘The political authority of secularism in International Relations’, p. 240; Nukhet A. Sandal and Patrick James, ‘Religion and International Relations theory: Towards a mutual understanding’, *European Journal of International Relations*, 17:1 (2010), pp. 3–25.

<sup>4</sup> Prominent accounts of the ‘return’ or ‘resurgence’ of religion include Samuel Huntington, *The Clash of Civilizations and the Remaking of World Order* (New York: Simon and Schuster, 1996); Mark Juergensmeyer, *The New Cold War? Religious Nationalism Confronts the Secular State* (Berkeley: University of California Press, 1993); and Benjamin Barber, *Jihad vs. McWorld* (New York: Times Books, 1995). Elizabeth Shakman Hurd, *Beyond Religious Freedom: The New Global Politics of Religion* (Princeton: Princeton University Press, 2015) presents a sophisticated and compelling account of the return of religion in international politics as perceived and imposed, and the politics behind current understandings of religion in international affairs. In light of this, we refer here to a ‘perceived “return of religion”’. It is worth noting that the multiple sources cited here, from IR theory since 2000, show that whether or not there has been a return of religion to international politics, there has certainly been a return of religion to the *study* of religion and politics.

<sup>5</sup> See, for example, David Boucher, ‘Resurrecting Puffendorf and capturing the Westphalian moment’, *Review of International Studies*, 27:4 (2001), pp. 557–77; James A. Caporaso (ed.), *Continuity and Change in the Westphalian Order* (Hoboken, NJ: Wiley, 2000); Luke Glanville, ‘The myth of “traditional” sovereignty’, *International Studies Quarterly*, 57:1 (2013), pp. 79–90; Andreas Osiander, ‘Sovereignty, International Relations, and the Westphalian myth’, *International Organization*, 55:2 (2001), pp. 251–87; Philpott, ‘The religious roots’; Wouter G. Werner and Jaap H. De Wilde, ‘The endurance of sovereignty’, *European Journal of International Relations*, 7:3 (2001), pp. 283–313 (pp. 286–90).

<sup>6</sup> Philpott, ‘The religious roots’.

<sup>7</sup> A new appreciation of the role of Christianity in the West emerges both from the secularist (or postsecularist) Jürgen Habermas and the former Pope Joseph Ratzinger, in their joint work, *The Dialectics of Secularization: On Reason and Religion* (San Francisco: Ignatius Press, 2005). Yet even these thinkers’ work is closely related to the challenge of non-Christian religion in the public sphere. While Ratzinger engaged rival cultures in the 2005 text, Habermas wrote: ‘The Muslims next door force the Christian citizens to face up to the practice of a rival faith. And they also give the secular citizens a keener consciousness of the phenomenon of the public presence of religion.’ Jürgen Habermas, ‘Notes on post-secular society’, *New Perspectives Quarterly*, 25:4 (2008), p. 20.

and further as territorialisable and governable. The Peace of Westphalia – a ‘Christian peace’ between ‘Christian king’ and ‘Christian majesty’ to end the shedding of ‘Christian blood’<sup>8</sup> – sought to resolve decades of warfare allegedly caused by the religious diversity of post-reformation Europe, by having the sovereign determine the religion of his territory, whether Lutheran, Calvinist (Reformed), or Catholic. The political theory of the period, considered here as part of the Westphalian moment,<sup>9</sup> went beyond engaging Christian religious difference, and some theorists actively presented non-Christian difference as similarly warranting territorial governance for the sake of peace. Theorists addressed Muslims in territorial terms, for the most part simply identifying Islam as ‘Turk’.<sup>10</sup> Jews, who nowhere held land, earned more elaborate treatment by thinkers who took it upon themselves to domesticate Jews in a world of sovereign states where religious difference was understood as stabilised by sovereignty, and sovereignty was to be stabilised by civil religion.

It is the theoretical discourse about the Jews at the Westphalian moment that will be recovered below, with an eye to better understanding what has become known as Westphalian sovereignty and the place of religious difference at its foundations. This discourse involved Jean Bodin, Hugo Grotius, Thomas Hobbes, Benedict de Spinoza, and other formative thinkers of modern politics writing over a hundred-year period,<sup>11</sup> considering the place of the Jews – a religious other against

<sup>8</sup> Avalon Project at Yale Law School, ‘Treaty of Westphalia, October 24, 1648’, Lillian Goldman Law Library, n.d., available at: [http://avalon.law.yale.edu/17th\\_century/westphal.asp](http://avalon.law.yale.edu/17th_century/westphal.asp) accessed 8 January 2015.

<sup>9</sup> In understanding Westphalian sovereignty as encompassing sixteenth and seventeenth-century theories and applications, we are in line with Kant’s critique in *Perpetual Peace*, which both mocked the 1648 arrangements and labelled Grotius, Vattel, and Puffendorf as ‘sorry comforters’. Immanuel Kant, *Perpetual Peace: A Philosophical Sketch* (1795), in H. Reiss (ed.), *Kant: Political Writings* (New York: Cambridge University Press, 1991). Benjamin Straumann, ‘The peace of Westphalia as a secular constitution’, *Constellations*, 15:2 (2008), pp. 173–86 also suggests this approach.

<sup>10</sup> Of the sovereignty theorists considered here, Bodin provided the most elaborate treatment of Muslims (though his treatment of Jews was far more extensive). Bodin describes rulers in lands who had rejected the Caliph as being above them, as sovereign. In this context he mentions ‘the princes of Persia, the Curdes, the Turkes, the Tartars, the Sultans of Aegypt, the kings of Marocco, of Fez, of Telensin, of Tanes, of Bugia, and the people of Zenetes, and of Luntune’ as having sovereignty. Jean Bodin, *Six Books of the Commonwealth* (London, 1606 [orig. pub. 1576]), 1.9. He discusses the possibility that the Islam of the Caliph who claims to be above the sovereign is a corruption of true Islam; a claim reflecting the Protestant critique of Catholicism, demonstrating that Islam (like Judaism) is discussed from a Christian perspective. Hobbes’s discussion of Islam is very limited, mentioning Mohamed (Mahomet) four times, and only once mentioning Muslims (Thomas Hobbes, *Leviathan: Or The Matter, Forme and Power of a Commonwealth Ecclesiasticall and Civil* [*Leviathan*] (London, 1651), 4.44, pp. 336–7) to whom he refers as ‘Turkes’. This single reference is discussed below. Harrington does not discuss Muslims or Islam, with references to the Turk being devoid of religious significance. The minimal treatment of Islam in early modern political theory might relate to the Turkish imperial threat being understood as enmeshed with the threat of Islam, so that Islam was already understood in territorial terms. Nabil Matar’s rich and fascinating work on the encounter between early modern England and Islam illustrates such an understanding, and also engages the enmeshing of the Jewish and Muslim threat in the English imagination. See Nabil Matar, *Britain and Barbary, 1589–1689* (Gainesville: University of Florida Press, 2005); Nabil Matar, *Islam in Britain, 1558–1685* (Cambridge: Cambridge University Press, 1998). That the political-theory discussion presented here separates Jew from Muslim, resting on common perceptions of Muslims while contesting common perceptions of Jews, warrants further research and comparative work.

<sup>11</sup> Where possible, we have consulted first English editions of sixteenth- and seventeenth-century texts on Early English Books Online (EEBO), including Jean Bodin’s *Six Books of the Commonwealth*, Thomas Hobbes’s *Leviathan*, Hugo Grotius’s *The Illustrious Hugo Grotius Of the Law of Warre and Peace, With Annotations, III Parts* [*Laws of War and Peace*] (London, 1655), and James Harrington’s *Commonwealth of Oceana* (London, 1656). The spelling of Bodin’s and Harrington’s texts have been modernised for clarity. A modern

which Christianity had long defined itself – in the world of sovereign states they imagined.<sup>12</sup> The discourse brought to life here was purely theoretical in the sense that the political possibilities it imagined for the Jews were largely detached from the variety of political forms Jewish life took at the time, as well as from contemporary Jewish voices and cultural and religious representations of Jews. But the discourse was also radical and quite stunning, partly because of this detachment. It began with a sweeping understanding, promoted by theorists, that the Jews could be discussed as a people in history, with both chosenness and supersession set aside, even while groups and entire peoples in Europe saw themselves as ‘chosen’ with the Jew as a figure.<sup>13</sup> It continued with Jean Bodin’s strong and surprising statement that, though Jews were tolerated in various places, in the absence of land they are unable to protect their religion and liberty. The discourse culminated with a proposal for modern Jewish sovereignty, appearing as early as 1656 in the work of republican thinker, James Harrington.

Indeed, two hundred years prior to modern nationalism and the earliest iterations of modern Zionism and three hundred years before the establishment of the modern Jewish state,<sup>14</sup> theorists at the Westphalian moment conceived modern Jewish sovereignty as an alternative to accommodating Jewish difference within Christian commonwealths. While not all political theorists came to these conclusions, those who dissented from the idea of the Jews needing their own political space, premised their case for tolerating Jews on the denial of Jewish difference with lasting significance, paired with an expectation that the Jews would convert. This lends credulity and historical depth to the post-sovereignty critique of Europe that – first with respect to Jews and today with respect to Muslims – it ‘could only tolerate otherness by forcing it to become like itself’.<sup>15</sup>

The discussion of the Jews among key theorists at the Westphalian moment thus provides new critical tools for considering the Westphalian encounter with the religious other, and particularly the religious other who cannot claim a state for its protection.

translation of Benedict de Spinoza’s *Theological-Political Treatise* (1670) has been used. For all sixteenth- and seventeenth-century texts we have provided book and chapter numbers to make the references accessible across editions (noting the absence of a full modern edition of Bodin’s *Six Books of the Commonwealth*). As Harrington’s *Commonwealth of Oceana* is not divided into books and chapters, we have provided page numbers from the first edition, accessible at: [eebo.chadwyck.com].

<sup>12</sup> On Christianity understanding itself with respect to Judaism, see David Nirenberg, *Anti-Judaism: The Western Tradition* (New York: W. W. Norton, 2013).

<sup>13</sup> The early modern political-theory approach to Jewish texts as sources of ancient wisdom and political models has been studied in recent work on ‘political Hebraism’. See Gordon Schochet, Fania Oz-Salzberger, and Meirav Jones (eds), *Political Hebraism: Judaic Sources in Early Modern Political Thought* (Jerusalem: Shalem Press, 2008); Steven Grosby, ‘The third culture’, in Jonathan Jacobs (ed.), *Judaic Sources and Western Thought: Jerusalem’s Enduring Presence* (Oxford: Oxford University Press, 2011), pp. 73–96; Eric Nelson, *The Hebrew Republic: Jewish Sources and the Transformation of European Political Thought* (Cambridge, MA: Harvard University Press, 2010). Julie Cooper, in a recent essay, marks the study of ‘political Hebraism’ as one of three large-scale collaborative projects that comprise the field of ‘Jewish Political Thought’. Julie Cooper, ‘The turn to tradition in the study of Jewish politics’, *Annual Review of Political Science*, 19 (2016), pp. 67–87 (p. 68). Even with a substantial literature on political Hebraism, the bulk of early modern Hebraism was not ‘political Hebraism’, but rather related to the Dutch, English, Anabaptists, early Americans, and others imagining themselves as Israel and employing Hebrew and Jewish sources and images for theological and political-theological purposes, seeking Christian mysteries, connecting to an authentic pre-Catholic past, modelling messianic kingdoms, emulating God’s true people, etc. Notes 20 and 40 below relate to the English imagining themselves as a second Israel and to chosenness in the post-reformation imagination.

<sup>14</sup> For the nationalist impetus behind the modern Zionist movement, see Moses Hess, *Rome and Jerusalem: The Last National Question* (1862), available at: [http://en.wikisource.org/wiki/Rome\_and\_Jerusalem].

<sup>15</sup> Seyla Benhabib, *Dignity in Adversity: Human Rights in Troubled Times* (Cambridge: Polity, 2011), p. 17.

Our work presented here also contributes to the contemporary discussion of Zionism and the future of the modern Jewish state, by relating the idea of a modern Jewish state to the idea of the modern state itself. If the idea of modern Jewish sovereignty dates back to the Westphalian moment, it might be more typical of Westphalian sovereignty than previously considered. The vulnerability of people-without-land in a world of states that was behind both the initial Zionist impulse and the UN resolution for the establishment of a Jewish state in Palestine, was perceived already in the sovereignty theory of the sixteenth century, and even applied to the Jews at that time. Some of the challenges and failings of the Jewish state founded three hundred years after Westphalian peace – particularly with dealing with religious and cultural differences – might further be understood as written into the groundwork of sovereignty itself. Similar challenges and failings can be viewed in contemporary Europe, which is once again confronted with unprecedented diversity, and the politics of religious difference behind modern sovereignty may need rethinking.

Three substantive sections follow. In the first we sketch how early modern political theorists took on traditional Christian understandings of the Jews and their ancient politics as well as contemporary understandings of Jews and Judaism, and lifted the exceptionalism of the Jews such that Jewish difference could be treated in familiar political terms. The second section recovers a debate among political theorists surrounding the question of whether Jews – understood as an unexceptional but religiously-differentiated group – could or should be incorporated into Christian commonwealths. The third section explores the alternative presented by political theorists to the incorporation of Jews into Christian commonwealths: the establishment of Jewish sovereignty. We conclude with a brief discussion of our findings and some implications for contemporary debates surrounding the nature of Westphalian sovereignty and the role of religion within it, the Westphalian encounter with the non-Christian, and the Jewish state as a Westphalian idea, for better and worse.

### **Lifting Jewish exceptionalism, from Bodin to Spinoza**

In both Judaism and Christianity, the ‘fall of Jerusalem’, loss of sovereignty, and subsequent exile which the Jews suffered around 70 CE, has long been understood as divine punishment. The Rabbis understood this punishment as one for ‘senseless hatred’,<sup>16</sup> whereas the early Church interpreted the Jews’ loss of sovereignty and the political inferiority that followed as divine punishment for the rejection and killing of Christ.<sup>17</sup> In both accounts Jews were a special and exceptional people, even such that the fall of their commonwealth was guided by a divine hand. Though Augustine promoted the idea that the Jews should be protected in Christendom,<sup>18</sup> more popular was Ambrose’s position that the political inferiority of the Jews was divinely mandated, and that things ‘Jewish’ constituted exceptional space unprotected by law.<sup>19</sup> Generally speaking, where Jews found protection in Christendom it was by special favour of the ruler rather than by law. Whether an emperor who desired to protect Jews was able to do so depended on the balance of power between Church and State at the time.

By the sixteenth and seventeenth centuries, the image of the Jew that permeated the European imagination leaned heavily on the idea of an exceptional people with a divinely-determined destiny. This was behind persecution, expulsion, and Ghettoisation in Catholic Europe, and the Protestant

<sup>16</sup> Babylonian Talmud, Yoma 9b.

<sup>17</sup> Nirenberg, *Anti-Judaism*, pp. 103, 117–19, 129–31, 187.

<sup>18</sup> Paula Fredriksen, *Augustine and the Jews: A Christian Defense of Jews and Judaism* (New Haven: Yale University Press, 2010).

<sup>19</sup> Nirenberg, *Anti-Judaism*, pp. 117–20.

identification with 'Israel'. Common was the idea, expressed from the Pulpit in English parliament in the seventeenth century, that if the English should prove themselves to be a 'true Israel' then God would favourably determine their destiny.<sup>20</sup> In the Dutch Republic, the Great Assembly of the States was addressed in 1651 as 'Ye Children of Israel', and other examples of identification with Israel and Jews abound.<sup>21</sup> As peoples imagined themselves as exceptional, they imagined themselves as Jews. Further, they imagined themselves besieged by Rome – this time Catholic Rome – and sought to prevent their loss of favour with God; the fall of their Jerusalem.<sup>22</sup>

It is striking, then, that as they conceived their theories of the modern state, political thinkers from Jean Bodin onwards lifted the exceptionalism of the Jews almost entirely, rejecting a key assumption behind both Catholic approaches to Jews and the new-Israel imagination. This involved no small effort. In fact, it involved constructing an alternative political history of the Jews from biblical times forward, in which the Jews were just like other peoples, with their political destiny determined by human choice, not divine intervention. Even the fall of Jerusalem and the loss of Jewish sovereignty was portrayed by theorists as resulting from human politics rather than divine intervention.

Jean Bodin's *Six Books of the Commonwealth*, first published in 1576 against the backdrop of France's religious wars, is both the foundational work of modern sovereignty and the work that took the first decisive leap towards reconstructing the political history of the Jews in modern political thought. The work displays a fascination with things Jewish, despite the absence of overt Jews from France. It contains the terms Jew, Jews, or Jewish 70 times, the terms Hebrew or Hebrews 90 times, and the terms Israel, Israelite, or Israelites 22 times.<sup>23</sup> In this work, Bodin boldly takes on the narrative that the loss of sovereignty over Palestine was divine punishment for the rejection of Christ. His text reads:

*Pontius Pilat*, governor of the same country, was constrained to condemn Christ Jesus as a tributary subject of his province ... For if the municipal magistrates of the Jews had had sovereign power and jurisdiction, they would not have sent him back again unto the governor, crying That he had deserved the death, but that they had not the power to proceed thereunto against him. ... For it is evident that before the land of Palestine was brought into the form of a

<sup>20</sup> See, for example, references to Israel in printed sermons such as: Simeon Ashe, *Gods Incomparable Goodness unto Israel, Unfolded and Applied* (London, 1647); William Beech, *A View of England's Present Distempers Occasioned by the Late Revolution* (London, 1650); John Tombes, *Anti-Paedobaptism, or, The Second Part of the Full Review of the Dispute Concerning Infant-Baptism* (London, 1654); Henry Adis, *A Fannatick's Letter sent out of the Dungeon of the Gate-House Prison of Westminster* (London, 1660), p. 24.

<sup>21</sup> On this, see Simon Schama, *The Embarrassment of Riches: An Interpretation of Dutch Culture in the Golden Age* (Berkeley: University of California Press, 1988), ch. 2, pp. 51ff., 100.

<sup>22</sup> Beatrice Groves, *The Destruction of Jerusalem in Early Modern English Literature* (Cambridge: Cambridge University Press, 2015).

<sup>23</sup> Word search conducted in electronic full text of Bodin, *Six Books of the Commonwealth*, available at: {[http://eebo.chadwyck.com/search/fulltext?ACTION=ByID&ID=D00000998427930000&SOURCE=var\\_spell.cfg&WARN=N&FILE=../session/1420724071\\_19927](http://eebo.chadwyck.com/search/fulltext?ACTION=ByID&ID=D00000998427930000&SOURCE=var_spell.cfg&WARN=N&FILE=../session/1420724071_19927)} accessed 8 January 2015. Scholarship has explored the role of Judaism in Bodin's works on religious truth and demonology. See, for example, Christopher R. Baxter, 'Jean Bodin's daemon and his conversion to Judaism', in *Jean Bodin: Proceedings of the International Conference on Bodin in Munich* (Munich: Beck, 1973), pp. 1–21; Marion Leathers Daniels Kuntz, 'Introduction', in Jean Bodin, *Colloquium of the Seven about Secrets of the Sublime*, trans. Marion Leathers Daniels Kuntz (Princeton: Princeton University Press, 1975); Paul Lawrence Rose, *Bodin and the Great God of Nature: The Moral and Religious Universe of a Judaiser* (Geneva: Librairie Droz, 1980); Maryanne Cline Horowitz, 'Bodin and Judaism', *Il pensiero politico*, 30 (1997), pp. 205–16. The role of Judaism in Bodin's *Six Books of the Commonwealth* has not been examined.

province, it had but the Senate of the Jews, consisting of 71 persons, composed in part of priests and Levites, who had the power of condemning offenders to death.<sup>24</sup>

According to Bodin, then, the Jews of Christ's time lived in Palestine, which had once been under Jewish sovereignty. However, by the time of Christ, Palestine had fallen under Roman rule. For this reason, the Jews needed to ask Pilate to condemn Christ to death; they themselves lacked the authority. Considering that the Jews lost sovereignty to the Romans *before* they rejected Christ, their loss of sovereignty could not have been divine punishment for the rejection of Christ. This is reinforced later in *Six Books of the Commonwealth* when Bodin describes the 'latter times of the Jews' commonwealth' as two hundred years before Christ.<sup>25</sup>

But if not for their rejection of Christ, why did the Jews lose sovereignty? Bodin points to the Jews' fatal political error in choosing to establish a king as sovereign, overthrowing the sovereignty of judges, which was the better form and thus preferred by God.<sup>26</sup> Jewish sovereignty collapsed not because God took sovereignty from the Jews, but because the principles by which Jewish kings and princes ruled were inferior to the principles by which the judges had ruled.<sup>27</sup>

Bodin's account of the loss of ancient Jewish sovereignty was more than a small anecdote in his enormous political treatise: it set the tone for the political-theory discussion of the Jews in which all significant sovereignty theorists of the seventeenth century participated. Whatever their differences, theorists agreed that the decline of the Jews' commonwealth had come about because of human decisions.<sup>28</sup> The difference between these political theory accounts and literary, theatrical, and religious accounts of the time is striking.<sup>29</sup> Hobbes located the decline of the Israelite commonwealth in the people's choice, in Samuel's time, to depose God and elect a human king over them.<sup>30</sup> He portrayed the Jews as having been ill-advised, under the influence of foreign powers, in this choice,<sup>31</sup> and displayed the freedom of the Jews to depose even God as exemplifying the constitutive power of the human will.<sup>32</sup> Spinoza traced the decline of the Israelite commonwealth to a particular ill, embedded in this commonwealth since its inception: the Levites assuming the sole right of interpreting the law, which he traced back to the Golden Calf, an act of the people.<sup>33</sup>

Two additional elements of Bodin's work on sovereignty that lifted the exceptionalism of the Jews and their politics became common ground among sovereignty theorists. The first is the redefinition of chosenness: While noting that the Jews were 'of all people most chosen', Bodin de-emphasised the special nature of Israelite politics, making chosenness a principle of that could be emulated by sovereigns seeking to follow God's example.<sup>34</sup> He argued that all princes should be viewed by their

<sup>24</sup> Bodin, *Six Books of the Commonwealth*, 1.6.

<sup>25</sup> *Ibid.*, 6.6.

<sup>26</sup> *Ibid.*, 4.6.

<sup>27</sup> See, for example, *ibid.*, 6.2.

<sup>28</sup> Hugo Grotius, *De Republica Emendanda* (c. 1599), trans. Arthur Eyffinger, *Grotiana N.S.*, 5 (1984), pp. 66–121 (p. 94); Hobbes, *Leviathan*, 3.41.

<sup>29</sup> Cf. Groves, *The Destruction of Jerusalem*.

<sup>30</sup> Hobbes, *Leviathan*, 3.33, 3.41, etc.

<sup>31</sup> *Ibid.*, 2.29–30, 3.33.

<sup>32</sup> *Ibid.*, 3.40.

<sup>33</sup> Benedict de Spinoza, *Theological-Political Treatise* (1670), ed. Jonathan Israel (Cambridge: Cambridge University Press, 2007), 17.26–8; Steven Smith, *Spinoza, Liberalism, and the Question of Jewish Identity* (New Haven: Yale University Press, 1997), p. 149.

<sup>34</sup> Bodin, *Six Books of the Commonwealth*, 5.6.

people as having been chosen by God.<sup>35</sup> The generalisability of chosenness was taken up by Hobbes: the Israelites are sometimes mentioned in *Leviathan* as ‘chosen’ by God, but it is for a particular purpose, namely to be ruled by his law, which was a feature of the covenant between God and Israel. This was a mutual act and replicable in other covenantal acts.<sup>36</sup> Indeed, Hobbes emphasised human choice in establishing Israelite chosenness, and even the choice of the Israelites in establishing God’s sovereignty by their own votes. The Israelites being chosen by God then signified the applicability of God’s law to the Israelites for the time he was ‘ordinary’ – not exceptional – king over them.<sup>37</sup> Spinoza affirmed that the chosenness of the Jews refers to the excellence of their laws and institutions: God loves good laws and institutions, and to this extent the Jews were once chosen, when they had good laws and institutions.<sup>38</sup> He also discussed the Jews being chosen in the sense that God chose a part of the earth for them, and this lasted while their commonwealth survived.<sup>39</sup> The Jews, in Spinoza’s account, were not the first chosen people and would not be the last, and Spinoza was adamant that there was no sense in which the Jews could be called chosen which was not true of other peoples.<sup>40</sup>

The second additional element of Bodin’s lifting the exceptionalism of the Jews, implied in his presentation of the Hebrew language and Jewish sources as containing political wisdom, was the idea that Hebrew sources contained exportable ideas rather than laws applicable only to a particular people. The value of traditional Jewish sources, expressed throughout Bodin’s work, was not in any revelation they contained, but in the rich political experience they embodied. It is notable that Bodin’s earlier work, the *Methodus as facilem Historiarum Cognitionem* (*Method for the Easy Understanding of History* [1566]) has been identified as participating in the genre of ‘Political Hebraism’ – the employment of Jewish sources as humanist sources in political thought – which has been documented as beginning around the year *Six Books of the Commonwealth* was published.<sup>41</sup> The effect of this on *Six Books* has been suggested but never explored.<sup>42</sup>

Yet in *Six Books of the Commonwealth*, Bodin wrote of the Jews that they ‘always show the propriety of things by their names’,<sup>43</sup> such that Jewish political terms contain the essence of political ideas. Numerous times in this work he turned to Hebrew renditions of political terms in support of his understanding of sovereignty. Two key examples are his citing of the Jews calling families ‘elef’ because of their recognition of the head of the family being ‘aluf ..., a prince, or Lord; naming

<sup>35</sup> *Ibid.*, 2.5.

<sup>36</sup> Hobbes, *Leviathan*, 1.12.

<sup>37</sup> *Ibid.*, 3.42.

<sup>38</sup> Spinoza, *Theological-Political Treatise*, 3.6.

<sup>39</sup> *Ibid.*, Preface, 10.

<sup>40</sup> *Ibid.*, 3.10–12. One context in which we should view the redefinition and discussion of chosenness in this period is the self-perception of early modern peoples as chosen. This affected popular and political rhetoric and animated art and politics in England, the Dutch republic, and elsewhere. The Hebraic imagination and chosenness were tied in the image of a ‘new’ or ‘second’ Israel. See Frank E. Manuel, *The Broken Staff: Judaism Through Christian Eyes* (Cambridge, MA: Harvard University Press, 1992); Christopher Hill, *The English Bible and the Seventeenth-Century Revolution* (London: Penguin, 1993); Achsah Guibbory, *Christian Identity: Jews and Israel in Seventeenth-Century England* (New York: Oxford, 2010). The political-theory discussion unravelled here responds to this perceived chosenness by presenting ‘ancient Israel’ as a political model, exemplary rather than exceptional or ‘chosen’.

<sup>41</sup> Nelson, *The Hebrew Republic*, pp. 17–18.

<sup>42</sup> Anna Maria Lazzarino Del Grosso, ‘The Respublica Hebraeorum as a scientific political model in Jean Bodin’s *methodus*’, *Hebraic Political Studies*, 1:5 (2006), pp. 549–67.

<sup>43</sup> Bodin, *Six Books of the Commonwealth*, 1.2–3.



the family by the chief thereof; and his reference to the Hebrew term for sovereign: *'tomech shevet'*, which according to Bodin means 'the greatest power to command', but which literally means 'supporter of a scepter'.<sup>44</sup> *'Tomech shevet'* was portrayed by Bodin as expressing the essence of sovereignty, and indeed the sceptre was the symbol of divine sovereignty paralleling the sword in the frontispiece of Hobbes's *Leviathan*. Of all the biblical terms for Bodin to pick for 'sovereign', *tomech shevet* was an unusual choice: it appears only twice in the Hebrew bible and only in the book of Amos.<sup>45</sup> Yet the loaded literal meaning may betray Bodin's intentions: the sceptre invokes military command as well as the famous biblical phrase 'the scepter shall not depart from Judah', implying the exportability of the essence of Jewish sovereignty to other peoples.

Grotius, Hobbes, Harrington, and Spinoza also credited the Jews with political wisdom, which could be studied and employed in for the good of commonwealths. Grotius studied Jewish sources for natural law,<sup>46</sup> and advocated employing the structure of the Hebrew commonwealth, which he considered to be like the Dutch confederation of states, as a model. He found 'mixed' sovereignty – his answer to Bodin's absolute sovereignty – exemplified in the Hebrew commonwealth,<sup>47</sup> and studied the Sanhedrin as he developed his Erastian state structure.<sup>48</sup> Hobbes presented the entire commonwealth of the Hebrews – the kingdom of God over Israel from the time of Moses to the time of Samuel – as a model commonwealth, and indeed the only model commonwealth presented in *Leviathan*.<sup>49</sup> This kingdom was founded by 'the votes of the people of Israel',<sup>50</sup> a single sovereign governed civil and religious matters,<sup>51</sup> this sovereign governed by rule of law,<sup>52</sup> and sovereignty was

<sup>44</sup> Ibid., 1.8.

<sup>45</sup> The Hebrew Bible contains numerous terms that relate to political leadership – *melech* (king), *adon* (lord), and even *ribon* (the modern Hebrew term for sovereign), which appears in the *Targum* (Bodin cites Chaldaeus – the *Targum* – for this). See Aaron L. Katchen, *Christian Hebraists and Dutch Rabbis: Seventeenth Century Apologetics and the Study of Maimonides' Mishneh Torah* (Cambridge, MA: Harvard, 1984), p. 183.

<sup>46</sup> Hugo Grotius, *The Illustrious Hugo Grotius Of the Law of Warre and Peace, With Annotations, III Parts* [Laws of War and Peace] (De Jure Belli Ac Pacis Libri Tres, 1625) (London, 1655), 1.9, 3.14; Meirav Jones, 'Philo Judaeus and Hugo Grotius's modern natural law', *Journal of the History of Ideas*, 74:3 (2013), pp. 339–59.

<sup>47</sup> Grotius, *De Republica Emendanda*, pp. 105–21 (pp. 79–80); Grotius, *Laws of War and Peace*, 1.9, 3.14; Arthur Eyffinger, 'Introduction, *De Republica Emendanda*: A Juvenile Tract by Hugo Grotius on the Emendation of the Dutch Polity', *Grotiana N.S.*, 5 (1984), pp. 5–56 (pp. 23–7).

<sup>48</sup> Grotius, *Laws of War and Peace*, 1.53–4. Grotius's ideas on the Hebrew commonwealth and on the exportability of Jewish legal models were expressed both in his *Laws of War and Peace*, and also in his juvenile work of political theory, *De Republica Emendanda*, where he presented the Jewish commonwealth of antiquity as a model for the Dutch (see Eyffinger, 'Introduction, *De Republica Emendanda*'). This work likely informed a more sophisticated study of the Hebrew Republic by Leiden political theorist Petrus (Petrus Cunaeus, *De Republica Hebraeorum* [Leiden, 1617]). See Katchen, *Christian Hebraists and Dutch Rabbis*; Lea Campos Boralevi, 'Classical foundational myths of European Republicanism: The Jewish Commonwealth', in Martin Van Gelderen and Quentin Skinner (eds), *Republicanism: A Shared European Heritage, Volume I* (Cambridge: Cambridge University Press, 2002); Arthur Eyffinger, 'Introduction', in Petrus Cunaeus, *The Hebrew Republic*, trans. Peter Wyzetner (Jerusalem: Shalem Press, 2006).

<sup>49</sup> Warren Zev Harvey, 'The Israelite Kingdom of God in Hobbes' political thought', *Hebraic Political Studies*, 1:3 (2006), pp. 310–27.

<sup>50</sup> Hobbes, *Leviathan*, 3.35.

<sup>51</sup> Ibid., 3.40.

<sup>52</sup> Ibid., 2.31, 3.48; cf. *ibid.*, 2.30. This interpretation of Hobbes's sovereign as legalist in the sense of rule of law rather than 'decisionist', and indeed of Hobbes as a thinker who drew on Jewish law for his legalism, contradicts Carl Schmitt's interpretation of Hobbes. Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty* (Chicago: University of Chicago Press, 1985 [orig. pub. 1922]), pp. 33–5.

well-grounded in the effective civil religion that preserved it.<sup>53</sup> The Hebrew commonwealth thus exemplified the key political principles commended by Hobbes. James Harrington considered Hebrew wisdom the source of all wisdom,<sup>54</sup> and looked to the system of justice in the Hebrew commonwealth and to its republican form as a model for the English.<sup>55</sup> Spinoza looked back to the commonwealth of Israel as a model commonwealth where matters of religion were governed by the civil power,<sup>56</sup> and generally as a commonwealth that was governed with good laws.<sup>57</sup>

There is certainly more to be said on the early modern employment of Hebrew wisdom by political theorists conceiving the modern state, and the subject has received increasing attention.<sup>58</sup> Here we emphasise one aspect of ‘political Hebraism’ untapped to date: that as early modern political thinkers looked back to a time the Jews had held sovereignty, they denied the Christian narrative of Jewish exceptionalism. It was an ordinary people in history – a fallible people with agency – that had been governed by Hebrew laws and institutions. This people constituted its commonwealth and kept its laws with acts of will, preserved its wisdom in its language, and its commonwealth declined due to human error. The Jews were not essentially different from any other people, and this was what made the Jewish political experience relevant to others constructing their politics.

Further, as early modern theorists recognised, the Jews did not disappear after the decline of their commonwealth. They lived on, preserving their laws and institutions. These became, at the Westphalian moment, aspects of the Jews’ religion, with the Jews described by theorists as a people whose religion was different from others. Not extra-legal status, but a politics of religious difference that would define the place of the Jew in the world of states. This will be explored in the next section where we discuss the problem posed by the Jews at the Westphalian moment. When Jewish difference was framed as religious difference, Jews – as a religiously diverse group – either needed to be incorporated into commonwealths, or an alternative needed to be conceived.

### Could Jews be incorporated in modern states?

All political theorists discussed here, from Bodin through Spinoza, imagined ‘Christian commonwealths’, in line with the 1555 Peace of Augsburg’s famous *cuius regio eius religio* (he who holds the region, holds religion) reiterated in the Peace of Westphalia. The religion that was held by the state in the sixteenth and seventeenth centuries – in theory and in practice, to stabilise religious difference within Christianity – was Christian religion, with slightly more variety in the confessions acceptable in the seventeenth century than in the sixteenth.<sup>59</sup> The question of this section thus becomes, interchangeably, ‘Could Jews be incorporated in modern states?’, ‘Could Jews be incorporated in Westphalian states?’, and ‘Could Jews be incorporated in Christian commonwealths?’<sup>60</sup>

<sup>53</sup> Hobbes, *Leviathan*, 2.30.

<sup>54</sup> James Harrington, *The Commonwealth of Oceana* (London, 1656), p. 1.

<sup>55</sup> Nelson, *The Hebrew Republic*, pp. 57–87.

<sup>56</sup> Spinoza, *Theological-Political Treatise*, Preface, p. 14.

<sup>57</sup> *Ibid.*, 3.6.

<sup>58</sup> See, for example, Fania Oz-Salzberger, ‘The Jewish roots of Western freedom’, *Azure*, 13 (2002), pp. 88–132; Kalman Neuman, ‘Political Hebraism and the Respublica Hebraeorum: On defining the field’, *Hebraic Political Studies*, 1:1 (2005), pp. 57–70; Nelson, *The Hebrew Republic*; Grosby, ‘The third culture’.

<sup>59</sup> Straumann, ‘The peace of Westphalia as a secular constitution’.

<sup>60</sup> The interchangeability of state and commonwealth here reflects the same in seventeenth-century political theory. Hobbes, for example, writes, ‘For by Art is created that great LEVIATHAN called a COMMONWEALTH, or STATE (in latine CIVITAS) which is but an Artificiall Man.’

Despite the fact that all thinkers explored here considered the Jews an ordinary people in history with exemplary laws and institutions, and despite all imagining Christian commonwealths, the question of Jews in Christian commonwealths was one of debate rather than consensus.

Of all authors, we might have expected Jean Bodin to be the first to advocate toleration of the Jews in the Christian commonwealth, especially if we concede his authorship of the (in)famously tolerant text known as the *Colloquium Heptaplomeres*. The *Colloquium*, in its time, was considered to have been a Judaising work: its seven representatives of different faiths discuss religious truth, and the Jew seems to have the upper hand on many matters.<sup>61</sup> In *Six Books of the Commonwealth*, Bodin consistently praised the wisdom of Judaism, as we saw in the previous section, and made reference to Judaism being the origin of all religions. Surely the origin of all religions should be tolerated.

Yet in one of the more cryptic passages of *Six Books of the Commonwealth*, and among the most suggestive with regards to the proper place of the Jews in the emerging world of sovereign states, Bodin alludes to the 1562 wars between Christian sects, and particularly to Frankfurt, where the Genevan confession was banned. Bodin finds that the while Jews should not have to worry about their religion being tolerated in the state, considering that the Jewish religion was the cradle of all religions, yet Jews are not safe in Christian commonwealths, and neither is the Jewish religion that the Jews protect. Anecdotal evidence from around 1562 suggests that indeed this period offered little protection for Jews and those perceived as Jews. In a famous case in the Toulouse riots of 1562, a prominent man of Jewish descent, Jacques Bernuy, had his house ransacked and daughters raped, without him being accused of heresy at the time.<sup>62</sup> Two years earlier, the Roman Emperor until November 1562, Ferdinand I, initiated the confiscation of Jewish books.<sup>63</sup> While there were imperial edicts to which Jews could appeal to protect them against the blood libel – one of which was renewed in 1562 – yet Jews were often accused and tortured for alleged ritual murder.<sup>64</sup>

However, instead of censuring the persecution of Jews who were unable to protect themselves in Christian commonwealths, Bodin excused it: the fact that the Jews held on, in exile, to their political wisdom and exemplary laws may have been good for humanity's store of wisdom, but it did not bode well for the Jews themselves or for the commonwealths they inhabited. The fact that Jews insisted on 'using a strange religion' and detesting 'the gods of other nations', 'caused all other peoples and nations most grievously to hate and condemn them'.<sup>65</sup> Well-constituted commonwealths rely on religion, and this is supported by 'all wise law-givers and Philosophers, but even the very Atheists themselves', all of whom consider religion as 'the principal foundation of the power and

<sup>61</sup> Kuntz, 'Introduction'; Rose, *Bodin and the Great God of Nature*.

<sup>62</sup> This incident is recorded in a number of places: G. M. Bosquet, *Sur les troubles Advenus en la ville de Tolose l'an 1562* (Toulouse, 1595), pp. 140–2; Paul J. Hauben, *Three Spanish Heretics and the Reformation: Antonio Del Corro, Cassiodoro De Reina, Cypriano De Valera* (Geneva: Droz, 1967), p. 30, fn. 37; and M. Greengrass, 'The anatomy of a religious riot in Toulouse, in May 1562', *Journal of Ecclesiastical History*, 34:3 (1983), pp. 367–91 (p. 386), yet while Bernuy appears as a wealthy merchant in these accounts, his Jewish ex-Spanish origins appear only vaguely. These are easily discoverable in current tourist information on the family hotel, which still stands. See: <http://structurae.info/ouvrages/hotel-de-bernuy>.

<sup>63</sup> Abraham David (ed.), *A Hebrew Chronicle from Prague, c. 1615* (Tuscaloosa: University of Alabama Press, 1993), pp. 48–9.

<sup>64</sup> Po-Chia R. Hsia, *The Myth of Ritual Murder: Jews and Magic in Reformation Germany* (New Haven: Yale University Press, 1988), pp. 197–8.

<sup>65</sup> Bodin, *Six Books of the Commonwealth*, 3.7, 4.7.

strength of monarchies and Seignories'.<sup>66</sup> Conformity to state religion was and should be demanded by states, and toleration would be unnatural: indeed, even if states were to tolerate non-conformists, men are 'jealous of their religion', and this jealousy could erupt into violence and civil strife.<sup>67</sup> Jews, as a non-conforming religious group, could not be safely incorporated in a Christian commonwealth according to the father of modern sovereignty.<sup>68</sup>

Grotius's position on the Jews in Christian commonwealths was very different to Bodin's. He found that after the fall of the Hebrew commonwealth, the laws of the Jews were no longer binding on Jews or Christians, such that the 'partition wall' separating the two faiths no longer existed.<sup>69</sup> Interestingly, where Grotius found no theological problem he also found no political problem. Writing from within the Dutch republic – a Christian commonwealth where Jews were tolerated, though unofficially – Grotius believed that Jews could be legally incorporated in Christian commonwealths, with certain limits set on the activities in which they were allowed to engage. Grotius's proposal, including the limits he thought should be set in law for Jewish engagement, reflected the status quo in the Dutch republic.<sup>70</sup>

Considering the extent to which Grotius is considered to be a secular thinker, and considering his crucial role in the founding of modern international law,<sup>71</sup> it is worth stressing that his justification for tolerating Jews in Christian commonwealths was a Christian theological justification. It is also worth observing that the Jews he considered candidates for inclusion in this commonwealth were not, from his own theological perspective, any different from Christians. His perspective effectively promoted incorporating Jews in the commonwealth at the expense of Judaism itself: Jews were no different from Christians, so accepting them required no particular effort (other than some restrictions on their strange religion). At the same time, Grotius's Christian commonwealth demanded very little of its constituents by way of Christian religion. There was nothing in *Laws of War and Peace* that suggested that state stability depended on conformity to state religion.<sup>72</sup>

Thomas Hobbes, well known for his emphasis on state religion preserving the commonwealth, took a similar position to that of Bodin on the political question of the Jews. According to Hobbes, the Jews' inability to accept state religion made them a source of instability, and Hobbes singled out the Jewish

<sup>66</sup> Ibid., 4.7.

<sup>67</sup> Ibid., 3.7, 4.7.

<sup>68</sup> The question of whether conversion could protect the Jews remains. The riots in Toulouse show that Jews were not always successful in convincing others of their conversion, and the complex issue of New-Christian identity and toleration is beyond the scope of this article. Still, Bodin's interest was in protecting Jews' 'religion and liberty', such that conversion would have been counterproductive.

<sup>69</sup> Grotius, *Laws of War and Peace*, 1.8. This is echoed in Spinoza, *Theological-Political Treatise*, 9.10–11.

<sup>70</sup> For Grotius's more specific responses in his earlier works to questions of how Jews should be tolerated in Dutch society, including their ability to study at university centers, their prohibition from converting Christians, and the redundancy of ghettos, see Arthur Eyffinger, "'How wondrously Moses goes with the House of Orange!': Hugo Grotius' *De Republica Emendanda* in the context of the Dutch Revolt", *Hebraic Political Studies*, 1:1 (2005), pp. 79–109. Like in Grotius, *Laws of War and Peace* these suggestions reinforced the status quo *vis-à-vis* the Jews in his time.

<sup>71</sup> Grotius's statue in the market square in Delft remains a controversial reminder of the perceived secularity of this thinker, famously portrayed with his back to the Church and facing City Hall that housed a court. Arthur Eyffinger, *The 1899 Peace Conference: 'The Parliament of Man, the Federation of the World'* (New York: Kluwer Law, 1999), p. 331.

<sup>72</sup> The closest Grotius came to such a claim was finding religion useful for human society in reinforcing natural law. He also posited minimal standards of morality necessary for participation in the state, drawn from Israelite Noahide law. Nelson, *The Hebrew Republic*, pp. 105–7.

religion as being inconsistent with the religion of civil government and thus the only religion forbidden by the Roman commonwealth.<sup>73</sup> Interestingly, Hobbes's singling out of Judaism as incompatible with state sovereignty was furthered by his discussion, elsewhere in the text, of a person inwardly Muslim, compelled by the sovereign to participate in Christian civil religion, and rightfully so.<sup>74</sup> It seems that Judaism was a religion Hobbes did not imagine could be confined to the private realm or to conscience. His allusion to Rome's exclusion of the Jews might be interpreted as a statement that his quibble with the Jews is not particular to Christianity, but a political issue to do with the stability of the state depending on state religion, and to Jews' unwillingness, in general and beyond Christianity, to participate in civil religion. Elsewhere he faulted Catholic Europe for its misunderstanding of politics that would have Jews, Muslims and Pagans tolerated but Protestants treated as deserving death.<sup>75</sup> The Pope viewing all Christians as his subjects was for Hobbes an abuse of scripture and a political disaster against which much of *Leviathan* argued, offering leviathan – sovereignty – over civil and religious matters.

James Harrington, the English republican thinker whose idea of sovereignty was far from absolute, oddly agreed with Hobbes and Bodin on the matter of the Jews: he considered the Jews to be the cradle not only of religion, but indeed of 'ancient prudence' that is the source of all prudence.<sup>76</sup> As such, we might have expected his sympathy to be towards tolerating Jews in the modern state. Yet quite the contrary: Harrington, writing just as Cromwell was considering reintroducing Jews to England, sought an alternative to the incorporation of Jews in the commonwealth, and considered that '[t]o receive the *Jews* after any other manner into a Commonwealth, were to maim it.'<sup>77</sup> Harrington's alternative will be discussed in the next section.

Spinoza, writing in the Dutch republic that tolerated Jews and also served as a model for Grotius, expressed the flaw we noted in Grotius's understanding: he found that the incorporation of Jews into commonwealths meant the abolition of Judaism and indeed of the Jews themselves. The relevant passage reads:

When the king of Spain at one time compelled the Jews to accept the religion of his kingdom or go into exile, a large number of Jews converted to the Catholic faith. All those who accepted it were granted the privileges of native Spaniards and were considered worthy of all positions of dignity. Hence they immediately integrated with the Spanish, so that in a short time there were no remnants of them left and no memory of them. But quite the opposite happened to those whom the king of Portugal compelled to convert to the religion of his kingdom. For though they submitted to his faith, they continued to live apart from all men, doubtless because he declared them unworthy of all higher positions.<sup>78</sup>

Spinoza thus found that conversion was a necessary but insufficient condition for the integration of Jews in Christian commonwealths. Only access to all aspects of society would lead, together with conversion, to the end of Jewish difference. The Jews relied, for their very survival as a people, on being separate. Those who value the survival of Jews (*qua* Jews) will not, on Spinoza's understanding, seek to fully integrate Jews into Christian commonwealths. For Spinoza, religious difference depended on a certain politics. It also – as we will see in the next section – could lead to the drawing of new political lines.

<sup>73</sup> Hobbes, *Leviathan*, 1.12.

<sup>74</sup> *Ibid.*, Bk 3, ch. 42, pp. 271–2.

<sup>75</sup> *Ibid.*, Bk 4, ch. 44, pp. 336–7.

<sup>76</sup> Harrington, *The Commonwealth of Oceana*, p. 1.

<sup>77</sup> *Ibid.*, Introduction.

<sup>78</sup> Spinoza, *Theological-Political Treatise*, 3.12.

Before moving to discuss the Westphalian moment's alternative to Jewish integration into Christian commonwealths, we note that this section, which has shown the variety of responses to whether Jews could or should be incorporated in Christian commonwealths, may shed light on a puzzle of early modern political thought, concerning the relationship between Jewish learning and attitudes towards Jews. One scholar commented that Grotius's attitude toward the Jews seems to have borne little correlation, one way or another, to his Hebrew learning.<sup>79</sup> John Selden, England's leading legal thinker who was both politically active and a great scholar of the Talmud and Rabbinic texts, did not advocate for the reintroduction of Jews to England, though he was politically active just prior to Cromwell's Whitehall conference. Selden did not live to hear Menasseh Ben Israel advocate on behalf of reintroducing Jews to England, and there has been some speculation as what his position on readmission would have been.<sup>80</sup> Following the discussion brought to light here, it seems Selden would have been guided in his approach to readmission, not by the value he attributed Jewish sources, but the importance he placed on conformity to state religion as a stabilising factor in the commonwealth. Not the value of Judaism as a distinct religion, but the extent to which state stability required religious conformity dictated political theorists' approaches to Jews as a religiously diverse group at the Westphalian moment.

### A seventeenth-century alternative to Jews in states: a Jewish state

So far we have traced the following discourse on the political status of the Jews through the foundations of modern sovereignty theory, from Bodin to Spinoza: The Jews were once a people in history who held sovereignty, not from divine providence but from their own choice. Their sovereignty declined due to poor human choices and not from divine providence. In the absence of a commonwealth, the Jews continued to preserve and maintain their political wisdom and unique laws in the form of a 'strange religion'. While some thinkers considered the Jews candidates for accommodation in Christian commonwealths, others considered that Jews – a people with unique religion and laws but no special theological or political status – would better be excluded from the state: even if the commonwealth itself accepted the Jews, civil unrest would result from a people not willing to conform to state religion. Grotius's solution of declaring Jewish laws no longer binding and thus denying the Jews' loyalty to rival law in any proper sense, and Spinoza's recalling the possibility of assimilation which was offered to the Jews of Spain through conversion, showed various possibilities for tolerating Jews at the expense of their religion and difference. If there was something inherently valuable in Judaism as a separate religion, or if the Jews were to continue to exist as a separate people, how could this be perpetuated? Where were Jews to go in the world of states emerging in political theory, if not Christian commonwealths?

Two of the theorists discussed here, Harrington and Spinoza, offered an alternative to the incorporation of Jews in Christian commonwealths by conceiving the possibility of modern Jewish sovereignty. Neither thinker engaged this idea extensively, yet both their presentations are important: twentieth-century philosopher Leo Strauss credited Spinoza as the founder of political Zionism for his discussion of a modern Jewish state.<sup>81</sup> Harrington's earlier discussion of the idea of Jewish sovereignty in his own time, with its clear roots in Bodin, suggests that to the extent that a Jewish

<sup>79</sup> Katchen, *Christian Hebraists and Dutch Rabbis*, p. 57.

<sup>80</sup> Jason Rosenblatt, *Renaissance England's Chief Rabbi: John Selden* (Oxford: Oxford University Press, 2006), p. 162.

<sup>81</sup> Leo Strauss, *Spinoza's Critique of Religion* (Chicago: Chicago University Press, 1997 [orig. pub. 1930]), pp. 4–6; Smith, *Spinoza, Liberalism*, p. 204; Spinoza, *Theological-Political Treatise*, 3.12.

state was created by Spinoza, a Jewish state may be said to have been founded by Bodin, and thus by the founder of modern sovereignty itself. Conceiving the Christian commonwealth, paired with the political undesirability of non-Christians, may have involved imagining separate spaces for non-conforming religionists. The Jews, who nowhere held land, needed space to be imagined for them.

James Harrington's discussion – and indeed theoretical proposal – of modern Jewish sovereignty, appears in the introduction of his 1656 *Commonwealth of Oceana*. It reads as follows:

PANOPEA, the soft mother of a slothful and pusillanimous People, is a neighbor island, anciently subjected by the Arms of *Oceana* ... it had been the Interest of *Oceana* so to have disposed of this Province, being both rich in the nature of the Soil, and full of commodious Ports for Trade, that it might have been ordered for the best in relation to her Purse: which in my opinion (if it had been thought upon in time) might have been best done by planting it with *Jews*, allowing them their own Rites and Laws; for that would have brought them suddenly from all parts of the World, and in sufficient numbers.

To this point, Harrington's proposal is that Ireland (represented here by Panopea) would be best handled by settling it permanently with Jews. The Jews could be gathered there from all parts of the world and the English would stand to profit. Harrington's reservation, 'if it had been thought upon in time', alludes to the consultation between Cromwell and Menasseh Ben Israel regarding the reintroduction of the Jews to England, taking place at that time he wrote. Harrington explains why he thinks this plan will work, drawing on contemporary studies of the Hebrew commonwealth and his own appreciation of Hebrew wisdom with which he opened *Commonwealth of Oceana*:<sup>82</sup>

And though the *Jews* be now altogether for Merchandize, yet in the Land of *Canaan* (except since their exile from whence they have not been Landlords) they were altogether for Agriculture; and there is no cause why a man should doubt, but having a fruitful Country, and excellent Ports too, they would be good at both. *Panopea* well peopled, would be worth a matter of four millions dry rents; that is, besides the advantage of the Agriculture and Trade, which, with a Nation of that Industry, coms at least to as much more.

The passage ends with a confirmation that Harrington means Jewish sovereignty as a perpetual solution, preferable to incorporating the Jews in England, explaining – in accordance with Bodin and Hobbes – that the Jews never incorporate and that they are a burden on any commonwealth:

Wherfore *Panopea* being farm'd out to the *Jews* and their Heirs for ever ... would have been a bargain of such advantage both to them and this Commonwealth, as is not to be found otherwise by either. To receive the *Jews* after any other manner into a Commonwealth, were to maim it: for they of all Nations never incorporate, but taking up the room of a Limb, are of no use or office to the body, while they suck the nourishment which would sustain a natural and useful Member.<sup>83</sup>

<sup>82</sup> We saw above that the idea that the Jews held political wisdom was shared by Bodin, Hobbes, and Grotius, who looked to the Hebrew commonwealth and Jewish law as they elucidated the political structures and laws they advocated. Harrington shared this appreciation for Hebrew wisdom, which he found to be the root of ancient prudence, and to contain important information about the system of distributive justice best administered by states. Harrington, *The Commonwealth of Oceana*, pp. 1, 26, 32, 43, etc.; Nelson, *The Hebrew Republic*, pp. 57–87.

<sup>83</sup> Harrington, *The Commonwealth of Oceana*, Introduction.

The idea that the Jews could be given land, and that this was key to their fulfilling their sovereign potential, can be found in Bodin's text, in the same passage discussed above where he found the Jews unable to sight for their life and liberty absent self-rule:

Wherefore the most ancient antiquity of that the Jewish religion, together with the great poverty of the Jews themselves, who in no place of the world may possess any lands, makes that they need the less, and are indeed the less able to sight for their religion and liberty<sup>84</sup>

It is thus the absence of land that makes the Jews unable to protect themselves, according to Bodin, and Harrington proposes giving the Jews land. The idea that accepting the Jews into commonwealths would have a damaging effect on the commonwealth was stated by Bodin, implied by Hobbes, and accepted by Harrington at the crucial moment of Cromwell's consultations on the readmission of the Jews.

Even if the foundations for Harrington's idea of Jewish sovereignty had been laid by earlier sovereignty theorists, there was something radical about his proposal: The idea that the Jews' ancient political wisdom, gained through their sovereign experience and maintained in exile, could be effectively used by seventeenth-century Jews to run a state, went beyond previously-accepted ideas. Harrington was thus the first to concretely promote the possibility of a modern Jewish state.<sup>85</sup> While ultimately Harrington's proposal is predicated on fear of the Jews and the dire effects that including such a people into English society would have on state stability, yet he expresses a rare appreciation for and faith in the Jews, not entirely foreign to seventeenth-century thinkers but voiced by none so powerfully as to propose the possibility of Jewish statehood.

Moving to Spinoza, we find that the theoretical possibility raised in the *Theological-Political Treatise* of a future Jewish state was predicated on the fact that the Jews continued to exist in Spinoza's time, and that their survival had been achieved by Jews separating themselves by circumcision. Where they had been allowed to assimilate, and had chosen this option, Jews had disappeared. But in most places they refused or had been refused assimilation, and continued to separate themselves. Thus:

I think that the sign of circumcision has such great importance as almost to persuade me that this thing alone will preserve their nation for ever, and in fact, were it not that the principles of their religion weaken their courage, I would believe unreservedly that at some time, given an opportunity, since all things are changeable, they might reestablish their state, and God will choose them again.<sup>86</sup>

Lest Spinoza be considered to be claiming here that the Jews were unique in being a chosen people, this passage continues as follows:

We also have an excellent example of this among the Chinese, who likewise zealously retain a kind of topknot on their heads, by which they distinguish themselves from all other men, and

<sup>84</sup> Bodin, *Six Books of the Commonwealth*, 3.8.

<sup>85</sup> One might argue that Harrington's proposal was not for Jewish sovereignty but Jewish autonomy. After all, he discussed Panoepa as a province of Oceana. Yet we recall that to Harrington it appeared that the Republic of the Netherlands was not a commonwealth but a league or confederation of commonwealths. See J. G. A. Pocock, 'Spinoza and Harrington: an exercise in comparison', *Bijdragen en mededelingen betreffende de geschiedenis der Nederlanden (BMGN)* 102:3 (1987), pp. 435–49 (p. 441). Further, Harrington discussed 'provincial sovereignty' as a form of sovereignty (Harrington, *The Commonwealth of Oceana*, pp. 19, 148), and the salient feature of the sovereign was lawgiving, so his specifying the Jews living under their laws is significant.

<sup>86</sup> Spinoza, *Theological-Political Treatise*, 3.12.



have preserved themselves in this distinctive manner for many thousands of years, so that they far surpass all nations in antiquity. Nor have they always had their own state. They have lost it and then recovered it, and without doubt will recover it again, when the Tartars become demoralized through luxury and idleness.<sup>87</sup>

Spinoza says little more of the Jewish state, and without the discussions of Bodin, Hobbes, and Harrington, it would be difficult to support the claim that any significant theorising of modern Jewish sovereignty took place in the seventeenth century. In the passage cited here, Spinoza might be said to have founded modern China with the same gusto as he founded modern Zionism. But in the context presented here, Spinoza's discussion of the possibility of renewing Jewish sovereignty was more significant than his discussion of the possibility of renewing Chinese sovereignty. The toleration of the Jews that was advocated by some political thinkers and actors in his time risked losing Judaism, and Jews were unlikely to accept integration. A Jewish state was conceived as a means for Jews – and other distinct groups – to make their separateness meaningful, and elevate themselves to the level of other nations ruled by good laws and institutions. In the terms of the debate surrounding modern Zionism two hundred years later, Spinoza could be said to have rejected what would become known as 'emancipation' as a viable solution for the Jews, even when his fellow Dutchman, Grotius, seemed to have justified such a solution, with all its religious baggage (in Grotius's time, explicitly conversion). At the same time, Spinoza's parallel between the Chinese and the Jews promotes, once again, the idea that the Jews' claim to sovereignty would not be exceptional.

Comparing Spinoza's proposal to Harrington's, Harrington's Jewish state appears to have been 'more Jewish' than Spinoza's. It embodied distinct Jewish religion, law, and culture; a Judaism so insistently and meaningfully unique that it could not be incorporated in other commonwealths. Spinoza's Jewish state did not necessarily continue any aspect of traditional Judaism other than circumcision, which was a sign of Jewish uniqueness equivalent to the Chinese topknot, and it demanded little more Jewishness than Grotius's Christian commonwealth demanded Christianity. The Jews of a Spinozan Jewish state could choose to give traditional Jewish law the force of law, but any law they chose would be the new Jewish law, and its relation (or lack thereof) to ancient Jewish law would have little consequence.

It might be worth considering that when Strauss claimed that Spinoza was the founder of political Zionism, this supported a minimalist understanding of the sort of Jewish state political Zionism sought to establish.<sup>88</sup> Early Zionist thinkers such as Theodore Herzl and Moses Hess were certainly inspired by Spinoza, but some of what inspired them was the return to the Jewish political experience found among other theorists of Spinoza's time, and some of the earlier accounts offered a more 'maximal' interpretation of a Jewish state. We might thus conclude that various ideas of a modern Jewish state developed by modern Zionism – more bound to traditional Judaism and less so – were prefigured in the European political-theory tradition beginning with Bodin that grounded a lasting politics of religious difference in the modern world of sovereign states, and considered the place of the Jews.

<sup>87</sup> Ibid., 3.12.

<sup>88</sup> We note the debate among scholars on the question of the kind of Jewish state Theodor Herzl envisioned. Yoram Hazony, 'Did Herzl want a Jewish state?', *Azure*, 9 (2000), presents this debate, with the author's conclusion that would support a more robust Jewish State than Spinoza imagined. Strauss termed the type of Zionism that advocated traditional Judaism as state religion 'cultural Zionism' rather than 'political Zionism', yet non-Jews conceiving of a Jewish state would not have fit his own criteria for this form of Zionism. Strauss, *Spinoza's Critique of Religion*, pp. 4–7.

## Westphalian and Jewish sovereignty: For better and worse

We opened with the observation that the return to the Westphalian moment to clarify the nature of Westphalian sovereignty currently in rupture has been coupled in some recent IR literature with a rethinking of the relationship between IR and religion, even signalling a turn in IR theory towards considering religion within its scope. Yet insofar as religion had been recognised in the foundations of modern IR, only Christian religion has been considered. Indeed, the Peace of Westphalia was an internal Christian settlement, yet the encounter with the non-Christian – usually considered a new problem brought on by globalisation – was present in the theory surrounding the peace treaty. We thus returned to the Westphalian moment with a new question: how did the theoretical framework of modern sovereignty consider the place of the non-Christian? We found two proposals for placing the non-Christian, particularly the Jew, in the world of Christian commonwealths imagined at the Westphalian moment: incorporation into Christian commonwealths, offered by Hugo Grotius drawing on a theological argument; and settlement in a designated Jewish commonwealth, first offered by James Harrington drawing on the foundations of sovereignty theory laid out by Jean Bodin and Thomas Hobbes. Both solutions lend themselves to critique: the first dismisses difference between religions. The second acknowledges difference and separates from it. These seem to be what Westphalia had to offer by way of encountering religious difference.

Our work supports characterising Westphalian sovereignty as the territorialisation of religion, and understanding the rupture of Westphalian sovereignty as related to the deterritorialisation of religion.<sup>89</sup> This is not to say that the Christian commonwealth imagined at the Westphalian moment was inherently intolerant or entirely homogenous. There was certainly more space for diversity than the warring sects of post-reformation Europe imagined in the preceding century, and practices of toleration at the time should be registered.<sup>90</sup> Yet the theoretical principle of Westphalia was generally territorial separation of religious difference rather than communing with difference, in line with the underlying principle that shared religion serves state stability, whereas public deviance from state religion threatens the peace. Here the Jews, imagined as a people who would not publicly conform and as a people without territory, might be seen as representing other non-Christian religionists who insist on overt difference and who may not find themselves territorially protected. The response of theorists at the Westphalian moment was separate statehood or elimination of difference, both for the sake of peace in the commonwealth and the protection of the non-Christians in a world where sovereignty was the means to protection.

With regards to seventeenth-century Jews, neither theoretical solution won out in determining their status. In the Dutch republic, Grotius's proposal for the formal reintegration of the Jews was rejected in favour of an informal status quo.<sup>91</sup> In England, Cromwell failed to come to the conclusion that Jews could be legally and morally settled in a Christian commonwealth,<sup>92</sup> but he also failed to

<sup>89</sup> Benhabib, *Dignity in Adversity*, pp. 171–2.

<sup>90</sup> On this, see Benjamin Kaplan, *Divided by Faith* (Cambridge: Harvard University Press, 2007).

<sup>91</sup> Grotius's concrete proposal for the incorporation of Jews, his 'Remonstrantie to the states of Holland', is beyond the scope of this article but concurs with the statements on the Jews in *De Jure Belli*. See Jacob Meijer, 'Hugo Grotius' "Remonstratie"', *Jewish Social Studies*, 17:2 (1955), pp. 91–104.

<sup>92</sup> The controversy surrounding Jewish readmission is masterfully presented in David Katz, 'English redemption and Jewish readmission in 1656', *Journal of Jewish Studies*, 34:1 (1983). Katz emphasises the Millenarian considerations of Cromwell's England, but also offers the political challenge Jews posed to the idea of a Christian commonwealth. See pp. 86ff. for Cromwell's inconclusion on whether Jews could be legally and morally admitted.

designated separate political space for Jews. Overall, political practice from the seventeenth century through the nineteenth did not express the bold positions early modern thinkers took regarding the Jews. There was a denial on the part of enlightenment thinkers and actors that Jews would continue to exist as a significant religious ‘other’, sometimes alongside the denial that religion itself would continue to exist as a significant force. But the Westphalian moment did have a legacy through the nineteenth century: the lifting of political exceptionalism achieved by early modern theorists may have contributed to the emancipation of the Jews as a religiously-diverse group once other religiously-diverse groups had been emancipated.<sup>93</sup> Of course, the Westphalian moment may also have defeated any possibility for emancipation to succeed in European states long before this was offered. Bodin observed that in the absence of land, adherents to ‘strange religion’ would be vulnerable, but he had not sought to protect them within his conception of the modern state.

There is thus a justification for a Jewish state built into the foundations of Westphalian sovereignty: in a world of states, a state is required for protection. Yet this justification reveals as much about the limits of this model for global politics today as it does about the utility of a Jewish state as the solution to the ‘Jewish question’ of the seventeenth century, the nineteenth century, or the present. If territorialisation was the dominant theoretical solution and the ultimate practical solution to encountering Jews and religious difference – give them land to protect their religion and liberty – conceived in the sixteenth century and realised for the Jews only in the twentieth, this may not be a viable principle to adhere to into the future, if it ever was. Whatever one thinks about the current value of Westphalian sovereignty, or particular elements of Westphalian sovereignty, religious diversity within any given territory seems inevitable, and the politics of religious difference in the groundwork of the modern state thus needs to be rethought for any political arrangement.

This has, to some degree, found expression in contemporary Israel: The two-state solution to the Israeli-Palestinian conflict, reflecting the UN partition vote of 1947 (resolution 181), can be framed in light of our discussion as a Westphalian solution – a European solution that draws on seventeenth-century principles – for post-Holocaust Europe seeking to protect Jews by providing land. It may also be understood as a Westphalian-European solution for Arabs distinguished as non-Jewish inhabitants of the land.<sup>94</sup> Today, the two-state solution that would divide the land based on partially-conceived religious difference (alongside partially conceived ethno-national difference) seems off the table according to Israeli and Palestinian leaders, left and right. New alliances are emerging from the apparent stagnation, as are new and revived possibilities for sharing territory that abandon the ideal of territorialising difference that has dominated the peace movement for decades. Movements that cross political, ethnic, and religious lines are visibly and vocally exploring alternatives to territorial separation and division.<sup>95</sup>

<sup>93</sup> For a related discussion of emancipation, see David Sorkin, ‘Religious minorities and citizenship in the long nineteenth century’, in Winnifred Fallers Sullivan, Elizabeth Shakman Hurd, and Saba Mahmood (eds), *Politics of Religious Freedom* (Chicago: University of Chicago Press, 2015).

<sup>94</sup> The lack of religious distinction within Arab identity may have roots in the Westphalian moment when Muslim was identified as ‘Turk’ and vice versa. Relevant here, particularly to the challenges to Westphalia in Israel-Palestine, are recent decisions to recognise Aramean ethnicity, allowing Christian Arabs to distinguish themselves from Muslim Arabs in Israeli law. The political implications of this are not yet clear, though certainly a two-state solution is challenged in a political reality that recognises such plurality. Also, as this is a religious distinction, it highlights the centrality of the politics of religious difference still today.

<sup>95</sup> Numerous movements and initiatives exist today, promoting liberal-democratic, binational, federative, or confederative alternatives to the two-state solution, and there is a growing literature. A range of solutions and some bibliography is presented in Bashir Bashir, ‘Strengths and weaknesses of integrative solutions for the

What is so interesting about some of the new – and still marginal – peaceful possibilities being explored in Israel-Palestine outside the Westphalian two-state solution, is that they break from imposed Christian structures and from inherited ideas once-designed to resolve Christian European problems. In Europe, there are currently two governing principles on offer, Westphalian sovereignty and enlightenment universalism, where the assumptions behind both are demonstrably Christian;<sup>96</sup> non-Christians remain outsiders. If Israelis and Palestinians – Jews, Muslims, atheists, and Christians from Europe, Africa, Asia, and Arab lands – seek alternatives to the Westphalian framework through dialogue and negotiation, the emergent frameworks may retain some ideas inherited from the Westphalian moment and discard others, yet the encounter with the ‘other’ will cease to be modelled on Christian Europe’s encounter with religious difference.

As International Relations theory looks to the future of global politics, considering both the nature and relevance of Westphalian sovereignty and the extent to which religion has persisted or returned, the question of how religious difference is to be encountered by the state (or its alternative) is crucial. Our work has provided an account of the Westphalian encounter with religious difference and indeed the origins of the idea of a modern Jewish state conceived at the Westphalian moment. To the extent that the Westphalian encounter with religious difference is limited for global governance today, when religion is less territorialised or territorialisable than imagined in the seventeenth century, IR theorists will need to look beyond this model for a more satisfying encounter with religious difference. To the extent that modern sovereignty remains an important concept in global politics, as the recent Brexit vote indicated it may, the limits of the Westphalian encounter with religious difference should be acknowledged and supplemented.

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Israeli-Palestinian conflict’, *Middle East Journal*, 70:4 (2016), pp. 560–78. Beyond this range, solutions promoted by the Israeli Right include federation and annexation. Some solutions have long been promoted by groups opposing partition. Others were discarded with the foundation of the state of Israel and are being newly promoted following the perceived decline of the two-state solution. See, for example, Yossi Beilin, ‘Confederation is the key to Middle East peace’, *The New York Times* (14 May 2015), available at: {<http://nyti.ms/2db60DV>}; Uri Avnery, ‘Confederation is the correct and only solution’, *Haaretz* (30 August 2015), available at: {<http://www.haaretz.co.il/opinions/.premium-1.2719455>} (in Hebrew). While most alternatives to partition adopt recognisable Westphalian forms, the Israeli-Palestinian movement ‘Two States One Homeland’ to which Avnery, ‘Confederation is the correct and only solution’, and Bashir, ‘Strengths and weaknesses of integrative solutions for the Israeli-Palestinian conflict’ allude is theoretically interesting for its departure from existing models. Being impressively inter-sectorial (including Jewish settlers, Left secularists, Palestinian liberationists, and more), this movement works with and through difference, and pursues a negotiated vision of ‘shared sovereignty’ that is necessarily non-Westphalian. While the vision is still abstract, the process of negotiation could potentially concretise a non-Westphalian model of governance grounded in a more satisfying encounter with difference.

<sup>96</sup> Hurd, ‘The political authority of secularism in international relations’ discusses the Christian assumptions behind enlightenment universalism as does Robert Yelle in his rich text, ‘Moses’ veil: Secularization as a Christian myth’, in Winnifred Fallers Sullivan, Robert A. Yelle, and Mateo Taussig-Rubbo (eds), *After Secular Law* (Stanford: Stanford University Press, 2011), pp. 23–42.

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