

# Intervention and non-intervention in international society: Britain's responses to the American and Spanish Civil Wars

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**Abstract.** This article aims to show that from the end of the eighteenth century, international order began to be defined in terms of ground rules relating to non-intervention and intervention, with the former being prioritised over the latter. After the Napoleonic wars, within continental Europe there was an attempt to consolidate an intervention ground rule in favour of dynastic legitimacy over the right of self-determination. By contrast, the British and Americans sought to ensure that this ground rule was not extended to the Americas where the ground rule of non-intervention was prioritised. During the nineteenth century, it was the Anglo-American position which came to prevail. Over the same period international order was increasingly bifurcated with the non-intervention ground rule prevailing in the metropolitan core and with the intervention ground rules prevailing in the periphery. This article, however, only focuses on the metropolitan core and draws on two case studies to examine the non-intervention ground rule in very different circumstances. The first examines the British response to the American Civil War in the 1860s during an era of stability in the international order. The second explores the British Response to the Spanish Civil War in the 1930s when the international order was very unstable and giving way to a very different international order.

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While the overall aim of this Special Issue is to examine the role of intervention as an ordering device in international politics, the specific intention of this article is to argue that any attempt to study intervention must also take account of non-intervention. Within the English School, it is presupposed that non-intervention is one of the key ground rules associated with the maintenance of order in the international society.<sup>1</sup> But it is also acknowledged that this assessment is perennially under challenge. Indeed, forty years ago, R. J. Vincent mounted a major response to the argument that International Relations (IR) had evolved in such a way that the 'basis for a rule of nonintervention has been irremediably eroded'.<sup>2</sup> After an extensive examination of how the theory and practice of non-intervention had evolved since the end

<sup>1</sup> According to Vincent, a ground rule reflects the existence of a general principle or imperative 'which makes a particular form of action or restraint obligatory' for all the member states in an international society. If a ground rule changes, then the character of the prevailing international order changes while non-observance of a ground rule provides evidence of instability within an international order. See R. J. Vincent, *Nonintervention and International Order* (Princeton: Princeton University Press, 1974), p. 20.

<sup>2</sup> *Ibid.*, p. vii.

of the Napoleonic wars, Vincent concludes, however, that so long as states survive, 'the doctrine of nonintervention bears a closer relation to reality than the progressive doctrines predicated on the disappearance of the state'.<sup>3</sup> So, for example, he examines the growth of transnationalism but insists that despite all the claims to the contrary, this phenomenon has not undermined the centrality of states in the international society. In this Special Issue, there is an attempt to square this circle by suggesting that intervention plays a special role as 'the mediator between territorial state sovereignty and transnational social forces'.

Vincent's starting point is that only if states operated in total isolation from each other would non-intervention exhaust the requirements for international order.<sup>4</sup> So, while the norm of non-intervention is intended to protect the right of sovereignty for all states and preserve the established international society of states, in a world where these states constantly interact, and where transnationalism is a powerful social force, there must also necessarily be some limits to that right. As a consequence, Vincent identifies three additional but potentially competing ground rules that acknowledge the need for intervention as a means of maintaining international order. The first indicates that international order must be built upon the preservation of legitimate governments within states, so after the Napoleonic wars, the continental great powers agreed that intervention must be sanctioned if a dynastic state was subjected to a revolutionary threat. A second ground rule focuses upon the need for a balance of power among states in order to preserve international order and the potential for intervention to preserve the arrangements put in place at the 1815 Congress of Vienna was justified on this premise. Finally, Vincent identifies a ground rule that maintains that the abuse of human rights within states is inconsistent with international order thereby justifying humanitarian intervention.<sup>5</sup> Clearly there is a potential for tension between these four ground rules and, as a consequence, both intervention and non-intervention are inherently contentious policies.

In an important addition to the literature, Martha Finnemore takes this argument further, suggesting that the way states understand order has varied over time and, as a consequence, so has the pattern of intervention. Very significantly, her research also indicates that it is only since the start of the nineteenth century that states have understood 'the meaning and purpose' of armed intervention.<sup>6</sup> Edward Keene, in this Special Issue, provides a fascinating explanation for this phenomenon, demonstrating that it was only during the course of the eighteenth century that states began to conceive of an international order made up of equal sovereign states that also occupied differentiated positions within what Wight depicts as a hierarchical 'grading of powers'.<sup>7</sup> Keene argues that both of these conditions had to be in place before the concept of intervention could emerge in the early nineteenth century. By the same token, the idea of intervention had to be formulated before the conception of non-intervention could emerge.

Finnemore, however, only focuses on intervention when she looks at how the international society has evolved across time. Intervention, she suggests, has helped

<sup>3</sup> *Ibid.*, p. 373.

<sup>4</sup> *Ibid.*, p. 332.

<sup>5</sup> *Ibid.*, pp. 340–9.

<sup>6</sup> Martha Finnemore, *The Purpose of Intervention: Changing Beliefs About the Use of Force* (Ithaca and London: Cornell University Press, 2003), p. 119.

<sup>7</sup> The phrase is borrowed from Martin Wight, in Hedley Bull and Carsten Holbraad (eds), *Power Politics* (Penguin: Harmondsworth, 1979).

to shape distinctively different modes of international order. After the Napoleonic Wars, she identifies a concert era (1815–50) when intervention was associated with attempts to preserve the international order established at the Congress of Vienna. There was then a spheres of influence era (1945–89) when the United States and the Soviet Union reached a tacit accommodation that allowed them to intervene within their own respective sphere in order to maintain the prevailing ideological orientation. Finally there is the current era with an as yet inchoate international order emerging governed by an overriding liberal consensus where intervention is seen to be justified if territorial borders are violated, if civil conflicts precipitate humanitarian disasters or if a state is harbouring a major terrorist threat to the outside world. In each of these three periods, according to Finnemore, there have been 'well-articulated rules and principles that participants broadly understood' but these rules and principles 'differ significantly' across these eras and generate distinctive international orders.<sup>8</sup>

From an English School perspective, however, there is serious difficulty with Finnemore's formulation because it implies that there were no 'well-articulated rules and principles' from the 1860s to the 1950s. For the English School, however, this is an era when the rules and principles governing the European international order were not only considerably elaborated but they were also extended to embrace other parts of the world.<sup>9</sup>

Christian Reus-Smit, in this Special Issue, however, develops a conception of international order on a much broader geographical canvas and one that diverges from the positions advanced by both Finnemore and the English School. He stipulates that the contemporary universal system of sovereign states only emerged in the mid-1970s and he argues that for the previous three centuries there was a bifurcated international order with states within the metropolitan core being separated and segmented on the basis of sovereignty, but 'where the very same states were differentiated from peripheral polities according to the principle of empire'. Keene has also drawn attention to this dual order, although he primarily associates it with the nineteenth century.<sup>10</sup> His position is in line with the argument advanced in Hedley Bull and Adam Watson that whereas the European states had effectively acknowledged the sovereignty of many of the polities that they had come into contact with over the previous centuries, signing binding treaties with them, during the course of the nineteenth century this situation changed dramatically.<sup>11</sup> According to Ian Brownlie, European and American international lawyers precipitated the change because by the middle of the nineteenth century it was agreed that state personality was determined by recognition, but 'recognition was not dependent upon any objective legal criteria'.<sup>12</sup> It was assumed that the Europeans and Americans – erstwhile members of Christendom – possessed state personality, whereas the large number of non-European political entities that had been treated as sovereign in the past were no longer considered to possess statehood.

<sup>8</sup> Finnemore, *The Purpose of Intervention*, p. 95.

<sup>9</sup> Hedley Bull and Adam Watson (eds), *The Expansion of International Society* (Oxford: Clarendon Press, 1984).

<sup>10</sup> Edward Keene, *Beyond Anarchical Society: Grotius, Colonialism and Order in World Politics* (Cambridge: Cambridge University Press, 2002).

<sup>11</sup> Bull and Watson, *Expansion of International Society*.

<sup>12</sup> Ian Brownlie, 'The Expansion of International Society: The Consequences for International Law', in Bull and Watson (eds), *Expansion of International Society*, p. 362.

This development had profound implications for how the ground rules of intervention and non-intervention played out during the nineteenth century and beyond. Whereas both the intervention and non-intervention ground rules had a role to play among sovereign states across this period, polities elsewhere were not considered to be sovereign and were, therefore, not protected by the non-intervention rule; only the ground rules governing intervention had a role to play. It follows, of course, that the character of the international order in the metropolitan core during the nineteenth century was radically different from the order that prevailed elsewhere.

This peripheral order, prior to Keene's contribution, was neglected by the English School, and indeed most IR theorists. However, because the focus here is on the relationship between intervention and non-intervention, attention is necessarily restricted to the international order that prevailed in the metropolitan core. What this article demonstrates is that the ground rule of non-intervention was steadily refined during the course of the nineteenth century and the importance attached to these refinements demonstrates its privileged position in the maintenance of international order.

The potential for intervention is particularly potent during civil wars and revolutions and outside states are often anxious to demonstrate that they are not intervening; so internal conflicts provide a pertinent focus for this article. Under conditions of civil disturbance, the opposing parties are almost invariably looking for outside support. Incumbent governments always insist that their existing relationship with other states remains unchanged and will view any deviation as interventionary. By contrast, insurgents make strenuous efforts to establish contacts with external populations and governments in order to gain assistance but also enhance their own legitimacy. Such conflicts, however, also have the potential to destabilise the existing international order and so it can be anticipated that such situations are likely to bring the ground rules associated with non-intervention and intervention into sharp relief. Certainly, the French Revolution can be viewed in this light and because the ideas underlying the revolution were transnational and had the capacity to spread to other states so it is unsurprising that the question of intervention was quickly raised in this context. The emphasis on intervention persisted in Europe in the aftermath of the Napoleonic Wars but primarily because of British opposition to the ground rules relating to intervention that were being laid down, the importance of a ground rule of non-intervention was accorded increasing salience. The significance of this ground rule was further enhanced because of the response to the revolutions in South America. As a result of the Eurocentrism that continues to prevail among IR theorists, however, the significance of this development has scarcely registered. Nevertheless, from an English School perspective, the formation of sovereign states in South America alongside the United States meant that the metropolitan core of the international society now embraced two continents and the international order defined by a common set of ground rules extended across the Atlantic. This is the context in which I want to discuss the emergence and consolidation of non-intervention as a ground rule of international order.

The article is divided into three sections. The first explores developments in state practice that clarified the ground rule relating to non-intervention. The subsequent sections focus on two case studies that reveal the significance attached to this ground rule by decision-makers. The first case looks at the British response to the American Civil War (1861–5) and it demonstrates that by the middle of the nineteenth century

the parameters of the ground rule had been well developed. The case also clearly confirms the existence of an international order that embraced Europe and the Americas. The second case looks at the British response to the Spanish Civil War (1936–9). Here we see again the British endeavouring to operate within the confines of the non-intervention ground rule, indeed referring back to their response to the American Civil War, but failing because of systemic pressures precipitated by the evident willingness of other states to pursue interventionary strategies that provided evidence of a desire to undermine the character of the existing international order.

### **State practice, international law, and internal conflict**

The non-intervention ground rule was clarified during the nineteenth century and this development was closely linked to the theory and practice of intervention. In the aftermath of the Napoleonic Wars, a divergence opened up between Britain and Europe as a result of the Russian proposal at the Congress of Aix-La-Chapelle in 1818 that there should not only be a collective guarantee for the territorial settlement of Vienna but also for the dynasties that ruled Europe. Lord Castlereagh, the British foreign secretary, could accept the first part of the proposal but not the second because for him there was a tension between the sovereign rights of incumbent governments and the right to self-determination of a nation. The tension was very evident across the Atlantic at this time where both the United States and Britain were determined to ensure that the outcome of the revolutions in South America were not affected by European intervention. In this instance the British relied on state practice from the past to help define their policy and international lawyers on both sides of the Atlantic went on to codify how states should contend with internal conflict in other states, thereby clarifying the ground rule of non-intervention. As John MacMillan reveals in this issue, some aspects of the rules were sufficiently well established by 1834 that Lord Palmerston was restrained by the Law Lords from pursuing an interventionary policy in Spain.

#### *Civil wars and the recognition of new states*

This part draws heavily on Mikulas Fabry's analysis of the rules associated with the formation of new states because these rules are often closely entwined with how civil wars are handled in the international society.<sup>13</sup> Fabry, moreover, traces the origins of these rules back to the end of the eighteenth century and the start of the nineteenth century. It can be argued, therefore, that from this perspective these rules are very closely associated with the constitution of the contemporary international society. According to Fabry, the rules that linked recognition to the establishment of new states began to emerge once European states started to acknowledge that they were part of a larger international society of sovereign states.

<sup>13</sup> Mikulas Fabry, *Recognizing States: International Society and the Establishment of New States Since 1776* (Oxford: Oxford University Press, 2010) See also Lindsay Moir, *The Law of Internal Armed Conflict* (Cambridge: Cambridge University Press, 2002), pp. 4–18.

Fabry's thesis rests on the dual-assertion that not only can contemporary thinking about the rules of state recognition be traced back for over two hundred years, but also that these rules have throughout this period been indivisibly linked to the idea of self-determination. State recognition and self-determination are, as Fabry puts it, two sides of the same coin. From this perspective then, recognition is closely associated with the emergence of a liberal international order and, as a consequence, Anglo-American thinking played a crucial role in establishing the rules and helping to shape their evolution.

Fabry argues that dynastic legitimacy, a hallmark of the international order in the eighteenth century was most seriously undermined, in the first instance, in Latin America. By the mid 1830s, 12 new states, all but Brazil constituted as democratic republics, had emerged as fully-fledged members of the international society. This significant development was associated with a substantial transformation in recognition practices as spearheaded by the United States and Britain. Both states explicitly repudiated the dynastic legitimacy being promoted at that time in Europe and that Spain and Portugal wished to extend to their overseas possessions in Latin America. However, the United States and Britain successfully brought into play a very different set of rules that were then to provide the foundations for recognition of new states over the next two hundred years. By contrast, dynastic legitimacy atrophied and had essentially disappeared by the start of the twentieth century. But the Latin American cases are also important because both the British and Americans operated on the basis of common rules about how to respond to civil wars.

In the aftermath of the Congress of Vienna, the dynastic European states were agreed that if they came under challenge from internal revolutionary forces then they had a right to expect intervention from other dynastic powers in order to suppress the revolution. But Britain and the United States challenged the existence of this right and argued, instead, that external intervention into what constituted a civil war in another state was not admissible. When the Latin American territories of Spain and Portugal demanded their independence, therefore, the British and the Americans operated on the basis of very similar assumptions and practices. Both accepted that the struggles for independence in Latin America constituted civil war and that Spain and Portugal had the right to demand respect for their territorial sovereignty. But at the same time, both Britain and the United States were clear that these states had no right to expect intervention by others to help them to suppress these demands for independence. On the contrary, they acknowledged that there was a right to self-determination on the part of the peoples of Latin America. The appropriate response for third parties, therefore, was identified as one of non-intervention and neutrality, thereby defending both the sovereign rights of the parent state and the right to self-determination on the part of a community.

There was, however, a desire to establish some continuity with the dynastic era. So, for example, when the British decision was being made to recognise the new states in Latin America, the despatches from Paris to London that were sent from between 1774 to 1778 were examined to ascertain 'the different steps by which France and Spain advanced successively to a recognition of our American colonies and our cooperation with them'. The despatches revealed that neither France nor Spain established official relations with the Americans 'until after the treaties of amity'.<sup>14</sup> But

<sup>14</sup> A. G. Stapleton (ed.), *Some Official Correspondence of George Canning*, vol. 1 (London: Longman, Green and Co., 1887), 95–6.

Britain and the United States were clear that sovereignty could not indefinitely trump self-determination. It was argued that if those seeking self-determination establish a *de facto* state, then both countries considered the community to have earned the right to recognition to sovereign status but only over the territory that they controlled and subject to a willingness to satisfy conditions that were considered to be in the general interest of the international society. What Fabry then goes on to show is that while the commitment to self-determination persisted, the other practices associated with the recognition of new states were substantially modified or even overturned during the course of the nineteenth and twentieth centuries. By contrast, the practices relating to international responses to civil war remained largely intact up to the Cold War, having been firmly entrenched during the era when the Latin American states were formed and recognised.

### *Civil wars and neutrality*

The international legal implications of civil war mainly evolved during the nineteenth century. Before then, from a legal perspective, internal conflict was considered to be purely a matter of domestic security and it was only towards the end of the eighteenth century that there was a 'distinct move towards the application of laws of war to internal as well as international armed conflicts'.<sup>15</sup> But during the nineteenth century, internal conflict began increasingly to have international legal consequences, triggering a two-step process. The first step involved assessing the scale and intensity of the conflict. As Lindsay Moir notes, classical international law recognises three levels of civil conflict, starting with rebellion, moving up to insurgency, and eventually reaching belligerency.<sup>16</sup> It is assumed that rebels can be dealt with expeditiously by the state and they are subject to municipal law and possess no rights under international law. Insurgency presupposes that rebels do pose a credible threat to the state but the international consequences are still minimal. The third level of conflict is reached when external states accept that the insurgents constitute a belligerent party. This recognition, however, is only *de facto* and does not confer any legitimacy on the insurgents but it does, nevertheless, move all the parties onto a second and unequivocally international step where the customary law of neutrality comes into play. If external states want the rules of neutrality to apply in the context of an internal conflict, however, then they have no option but to recognise the insurgents as belligerents. During the course of the nineteenth century, it became increasingly common for the rules of neutrality to be extended to domestic conflict.<sup>17</sup>

In the first half of the nineteenth century, the United States led the way in promoting the rights of neutrals. The practice of belligerency recognition developed, for example, following the rebellion of the Spanish-American colonies. In 1815, the United States granted belligerency status to the colonies and proclaimed themselves as neutrals. Four years later, the British followed suit.<sup>18</sup> The rights of neutrals were steadily strengthened during the course of the century. A major advance occurred

<sup>15</sup> See Moir, *Armed Conflict*, p. 3.

<sup>16</sup> *Ibid.*, pp. 4–18.

<sup>17</sup> See Elizabeth Chadwick, *Traditional Neutrality Revisited: Law, Theory and Case Studies* (Hague: Kluwer Law International, 2002), pp. 2–4.

<sup>18</sup> Moir, *Armed Conflict*, pp. 6–7.

when the British and French, finding themselves on the same side in the Crimean War, had to resolve long-standing differences on neutral rights. The agreement then formed the basis at the Paris Peace Conference in 1856 for the multilateral Declaration Respecting Maritime Law that laid down four basic principles: privateering was abolished; enemy goods on a neutral ship could not be seized; neutral goods on an enemy ship could not be seized; and a blockade was only legal if it was effective and could prevent access to the enemy coast.<sup>19</sup> There were eventually 51 parties to the Declaration of Paris, reflecting a very solid consensus in the international society.<sup>20</sup>

When the American Civil War broke out, therefore, the international legal implications were reasonably well established. It was acknowledged that a state wracked by civil war was in a vulnerable position, and so the incumbent government should be given some support by the international society. Third party states were enjoined not to give premature belligerency status to the insurgents or premature recognition for a new state before the incumbent government had been given every opportunity to re-establish control. As Wright notes, during the American Civil War ‘the British government was aware that such recognition, or even pressure to accept mediation, would violate the rights of the United States under international law until the independence of the Confederacy had been fully established in fact’.<sup>21</sup> By the same token, the rules governing neutrality were also clearly established, although ironically, given its long-standing support for neutral rights, the United States was not party to the Paris Declaration. It failed to adhere to the Declaration because it did not accept the principle that outlawed privateering. Although these rules were still active at the time of the Spanish Civil War the British found them much more difficult to put into practice.

### **Intervention and non-intervention in civil wars**

The first section of this article has argued that the ground rule of non-intervention was laid down during the first half of the nineteenth century and, in line with Vincent, it is suggested that the origins of the rule can be traced to events in the Americas and that the United States, with Britain in its wake, played a key role in its development.<sup>22</sup> The next two sections present case studies of the British response to, first, the American Civil War and, second, to the Spanish Civil War and they reveal how important the rule was in the formulation of British foreign policy in two of the most important civil wars to have occurred in the metropolitan core over the past two hundred years.

#### *Britain’s responses to the American Civil War*

The American Civil War broke out after more than fifty years of intermittent but very substantial expansion by the United States and by the 1860s it had developed

<sup>19</sup> Stephen C. Neff, *The Rights and Duties of Neutrals: A General History* (Manchester: Manchester University Press, 2000), pp. 97–9.

<sup>20</sup> Chadwick, *Traditional Neutrality Revisited*, pp. 30–1.

<sup>21</sup> Quincy Wight, ‘The American Civil War’, in Richard A. Falk (ed.), *The International Law of Civil War* (Baltimore: John Hopkins Press, 1971), pp. 30–109, 81.

<sup>22</sup> See Vincent, ‘Non-intervention’, pp. 107–13; and Moir, *Armed Conflict*, pp. 6–7.



into one of the world's leading great powers. The British were acutely aware of an American challenge to their naval strength because during the decade before the civil war the United States became the world's leading shipbuilding nation and the total tonnage of American commercial shipping almost equaled that of Britain.<sup>23</sup> At the same time, Britain had also become deeply enmeshed in the American economy. The chronic British balance of payments deficit was offset by overseas investments and there was far more British investment in the United States, mainly in the north, than in any European country. Nevertheless, diplomatic relations between the two countries were not good and even issues over which they attempted to cooperate, such as monitoring the illegal international slave trade, gave rise to friction.<sup>24</sup> The first part of this case study examines how Britain reacted to the outbreak of the civil war; the second discusses why the British changed their position on neutrality as a consequence of the civil war.

### *British reaction to the American Civil War*

The expansion of the United States in the first half of the nineteenth century had significant consequences for US domestic politics. In particular, it threatened the precarious balance between free and slave states in the Senate. The resulting division between North and South was closely observed by European states and they began to plan for a possible separation. From the onset of the crisis, the Southern States presupposed that they could count on British support, primarily because of their mistaken conviction that Britain was dependent on cotton from the Southern States. By the same token, it was widely held amongst the Northerners that the British wanted to see the Union fragment in order to eliminate an expanding rival in the western hemisphere and thereby create the conditions for a future British hegemony in the region. There was, therefore, a fear by the North and an expectation by the South that the war would precipitate British intervention.

The British prime minister, Lord Palmerston, maintained however, that 'our best and true policy seems to me to go on as we have begun and to keep clear of the conflict between North and South'.<sup>25</sup> When relations in the United States between North and South seriously deteriorated, Lyons was instructed not to give any comment on the situation, in case this could be construed as intervention.<sup>26</sup> The Admiralty also gave instructions for the navy to 'abstain from any measures or demonstrations likely to give umbrage to any party in the United States, or bear the appearance of partisanship on either side'.<sup>27</sup> Sir Charles Russell told Dallas, the United States ambassador in London, that Britain was in no hurry to recognise the separation between North and South as 'complete and final. But on the other hand I could not bind

<sup>23</sup> D. P. Crook, *The North the South, and the Powers: 1861–1865* (New York: John Wiley, 1974), pp. 1, 74.

<sup>24</sup> See Duncan Andrew Campbell, *English Public Opinion and the American Civil War*, Royal Historical Society Series (Woodbridge and Suffolk: Boydell Press, 2003), ch. 1, which surveys the areas of friction between Britain and the United States during the decade before the civil war.

<sup>25</sup> Domestic Records of the Public Record Office (PRO) 30/22/14B, Palmerston to Russell, Russell Papers (18 October 1861).

<sup>26</sup> Foreign Office (FO) 5/374, Russell to Lyons (1 May 1861).

<sup>27</sup> Admiralty to Admiral Milne (12 December 1860). Cited in J. P. Baxter, 'The British Government and Neutral Rights', *American Historical Review*, 34 (1928), pp. 9–9, 10.

HMG nor tell how or when circumstances might arise which would make a decision necessary'.<sup>28</sup>

Within a month of the attack on Fort Sumter (in April 1861, the event generally seen to symbolise the start of the civil war), Russell asserted that the situation in the United States 'cannot be designated otherwise than as a civil war' and it followed, he insisted, that the British government 'cannot question the right of the Southern States to claim to be recognized as a belligerent'.<sup>29</sup> Nevertheless, the British felt that a clear justification was needed to account for such a significant move. They found it in the decision by the United States to implement a blockade against the Southern States. In international law, a blockade is tantamount to a declaration of war and would, therefore, entitle foreign powers to identify the Southerners as belligerents rather than rebels or insurgents. The British had been concerned about this possible development even before the conflict started. In February, Russell wrote to Lyons, 'Above all things, endeavour to prevent a blockade of the Southern coast. It would produce misery, discord and enmity incalculable.'<sup>30</sup> Lyons indicated that he was doing all he could 'to make the Government here aware of the disastrous effect of their blockading the Southern ports or attempting to interfere in Southern commerce'.<sup>31</sup> In an attempt to deter the implementation of a blockade he indicated that such a move might leave foreign states with little choice but to recognise the Southern Confederacy, since the alternative was to tolerate an interruption of their shipping. However, such a move could be legitimately regarded by the North as intervention. Seward reacted very strongly to the suggestion, threatening, in turn, to confiscate without compensation any ships that came out of Southern ports without the authorisation required by US law.<sup>32</sup> On the day that Fort Sumter was attacked, Lyons indicated that the naval preparations 'look painfully like a blockade'<sup>33</sup> and a week later, on 19 April 1861, a proclamation was made announcing that a blockade was to be established by the Northern States.<sup>34</sup> Dean B. Mahin argues that in making this move, Lincoln was undoubtedly influenced by discussions with Lyons who argued that a Union blockade would be more acceptable to the British government and less hazardous for the United States than the proposal to 'close the ports' because 'the rules of a blockade are to a great extent determined and known'.<sup>35</sup>

The British could hardly object in principle to the implementation of a blockade by the North. They had used the strategy themselves during the Napoleonic Wars and knew that they might need to use it again in the future. Moreover, the British government had signed the Declaration of Paris in 1856 that established a new code of maritime law, acknowledging the legality of blockades, provided they were effectively implemented. The failure of the US to sign the Declaration, however, posed a

<sup>28</sup> FO 5/820, Russell to Lyons (4 December 1861).

<sup>29</sup> FO 5/754, Russell to Lyons (6 May 1861).

<sup>30</sup> Cited in E. D. Adams, *Great Britain and the American Civil War*, vol. 1 (London: Longman, Green, 1925), p. 58.

<sup>31</sup> Cited in C. F. Adams, 'The British Proclamation of May 1861' (4 September 1861), *Massachusetts Historical Society Proceedings*, 49 (1915), pp. 221–7, 224.

<sup>32</sup> Crook, *North the South, and the Powers*, p. 50.

<sup>33</sup> Cited in Adams, 'British Proclamation' (4 December 1861), p. 224.

<sup>34</sup> The economic consequences of the blockade have long been debated. For a recent and detailed economic assessment, see David Surdam, *Northern Naval Superiority and the Economics of the American Civil War* (Columbia: University of South Carolina Press, 2001), p. 209, which concludes that 'for the resources expended, the blockade appears to have been a worthwhile investment'.

<sup>35</sup> Dean B. Mahin, *One War At a Time: The International Dimensions of the American Civil War* (Washington DC: Brassey's, 2000), pp. 45–6.

problem for the North because on 17 April 1861, Jefferson Davis, the Confederate president, stated in a formal proclamation that the Confederacy would under the 'law of nations and the usages of civilized warfare' issue letters of marque and reprisal to privateers to attack Northern shipping.

These developments had serious implications for British shipping. Russell sought the legal advice of the attorney general, on the propriety of recognising Southern belligerency. The attorney general advised that the conflict should be treated as a regular war and that the Southerners were entitled to issue letters of marque although he suggested the possibility of a deal whereby belligerency could be recognised on condition that the Confederates agreed to abide by the Treaty of Paris.<sup>36</sup> Russell informed Lyons that Britain must consider the civil war as a regular war and adopt a policy of neutrality.<sup>37</sup> The government accorded the Southern States belligerent status and issued a Proclamation of Neutrality on 14 May. They also informed the French of their decision, an indication of the close consultation that was sustained between the two countries throughout the civil war. Édouard Thouvenel, the French foreign minister, followed a similar procedure to Russell, establishing a committee of experts on international law and precedents and it too concluded that the Southern States should be recognised as belligerents.<sup>38</sup> This position was effectively endorsed by the United States the following year when the Supreme Court stated that the President's Declaration of 19 April 1861 was 'official and conclusive evidence to the court that a state of war existed'.<sup>39</sup>

### *The British position on neutrality*

Much of the tension that existed between Britain and the United States during the civil war revolved around disputes that arose from the legal rights and duties of neutrals and belligerents. At the start of the conflict, Abraham Lincoln and William H. Seward were adamant that the Confederates should be treated as rebels and they felt very bitter when Britain recognised them as belligerents. However, Seward insisted that declarations of neutrality by France and Britain could not 'impair the sovereignty of the United States over the insurgents nor confer upon them any public rights whatsoever'.<sup>40</sup> But the difficulty with trying to adhere to this position was that Seward simultaneously wanted the United States to be accorded the rights of a belligerent.

As soon as the war with the South began, the North recognised the difficulties they now confronted as the result of failing to sign the 1856 Declaration of Paris. One of the North's first moves, therefore, was an attempt to adhere to the Declaration. The aim was to render American privateers illegal, thereby forcing the French and British to treat the Southern privateers as pirates. But the British and French argued that such a move would infringe their status as neutrals and they rejected the offer of adherence until the civil war was over and in the meantime they accepted the

<sup>36</sup> See D. P. Crook, *The North the South, and the Powers*, p. 77, who argues that Russell rightly ignored the suggested deal that was 'impractical and poor law'.

<sup>37</sup> See Adams, *Great Britain*, vol. 1 (4 April 1861), p. 86.

<sup>38</sup> Lynn M. Case, and Warren F. Spencer, *The United States and France: Civil War Diplomacy* (Philadelphia: University of Pennsylvania Press, 1970), ch. 2, provide a very full account of the French moves.

<sup>39</sup> Cited in J. W. Foster, *A Century of Diplomacy* (New York: Houghton Mifflin, 1901), p. 367.

<sup>40</sup> Cited in Case and Spencer *United States and France* (1 July 1861), p. 74.

legality of the Southern privateers.<sup>41</sup> The North, by contrast, did not acknowledge the belligerent status of the Southerners and, as a consequence, there was a threat to execute anyone caught on a privateer vessel. The threat never materialised, however, because the Southerners made it clear that they would respond on a reciprocal basis. More importantly, despite the Northerners' refusal to accord belligerent status on the Southerners, both sides agreed to observe the established laws of war, and indeed because of the lack of both clarity and familiarity with these laws, they were codified by Francis Lieber and the Lieber code was subsequently adopted by the Europeans.<sup>42</sup>

Despite the Northerners' anger about Britain's neutral posture, good use was made of their own concomitant status as a belligerent party in the aftermath of the war. Instead of pushing neutral rights, as the United States had done in the past, the emphasis was now placed on the duty of neutrals to ensure that the rights of belligerents were not infringed. The Americans were particularly aggrieved by the British interpretation of their neutrality law of 1819 (modelled on the 1818 US neutrality law). The law outlawed the fitting out, equipping or arming vessels for military purposes in a war in which Britain was neutral. According to the British interpretation, however, the law was not contravened if the equipping and arming of a vessel was accomplished as a separate operation from the building of the vessel. Foreign Office legal advisers, however, favored a more stringent interpretation 'because they were apprehensive about Britain's naval interests in a future war'.<sup>43</sup>

The *Alabama*, a cruiser built in Liverpool sailed down the Mersey in July 1862 for the Azores, where it then took on British supplied arms and went on to cause substantial damage to Northern shipping. There had, however, been a prolonged legal tussle about whether there was evidence that would stand up in a British court to allow the British government to seize the vessel. Eventually, on advice from the solicitor general and the attorney general, Russell, did order the *Alabama* to be detained, but the order arrived too late. D. P. Crook notes that while the Americans had been 'notoriously ardent in the cause of neutral profiteering in other people's wars' their views changed dramatically during the civil war.<sup>44</sup> Compensation was demanded for the damage caused by the *Alabama* and other costs incurred as the result of British 'intervention' during the civil war. Initially the British refused to accept that they had failed to meet the obligations of a neutral government. But they also recognised that the *Alabama* established a dangerous precedent and they wanted to clarify that neutrals were not permitted to build vessels that could be used later as warships in an ongoing war. After a Royal Commission in 1870, new legislation was enacted to clarify this point. The British then agreed to arbitrate the *Alabama* claims under the new legislation rather than the 1819 legislation that had been in place during the civil war.<sup>45</sup> The price that the British had to pay to repair relations with the United States and consolidate a new view of neutrality was \$15.5 million.

What this case study demonstrates is that by the middle of the nineteenth century, Britain and the United States were clearly operating on the basis of their understanding of a common set of rules that had been evolving across the century and which

<sup>41</sup> Crook, *North the South, and the Powers*, p. 374.

<sup>42</sup> For a discussion of the Lieber Code, see Wright, 'The American Civil War'.

<sup>43</sup> Crook, *North the South, and the Powers*, p. 259.

<sup>44</sup> *Ibid.*, pp. 261 and 295, where he also notes that it is often forgotten that the United States had earlier refused to concert with the British to clarify the law.

<sup>45</sup> *Ibid.*, ch. 10, and Mahin *One War at a Time*, Epilogue 2.

were embedded in their respective domestic legal systems. Although the North feared British intervention, it is apparent that the British decision-makers were anxious to operate within the confines of the existing rules. Although many in the North refused to accept that the conflict constituted a civil war, the British interpretation was effectively endorsed by the United States when the Supreme Court stated that the blockade was 'official and conclusive evidence to the court that a state of war existed'.<sup>46</sup> The situation was complicated, of course, by the fact that the United States had failed to ratify the 1856 Declaration of Paris, which the Confederates were then able to use to their advantage. The British accepted the legitimacy of the South's position. But these manoeuvres within the established legal position simply help to confirm that British and Americans were operating within the confines of a well-developed international order.

### *British responses to the Spanish Civil War*

The civil war resulted from a long-standing political struggle between right and left in Spain. In February 1936, a centre-right government, confronted by growing violence and unable to exercise effective power, held an election and a popular front coalition, linking left and centre parties, established a new government, but it was unable to stem rising disorder. In July, the army mutinied in Morocco. The mutiny quickly spread to mainland Spain and was successful almost everywhere apart from Madrid and Barcelona, but this resistance was sufficient to ensure the survival of the republican government and a military coup was transformed into a civil war between republican and nationalist forces that persisted until 1939. The war was soon internationalised with General Franco receiving support from Germany and Italy and the Soviets supplying aid to the Republicans. Although the British tried in vain to implement the ground rules associated with the established international order, even within Parliament its non-intervention strategy was characterised as 'malevolent neutrality'.<sup>47</sup>

### *British reaction to the Spanish Civil War*

It did not take long for the British to define the situation in Spain in terms of a civil war. News of an attempted army coup in Spain was received on 17 July 1936 and it was acknowledged 'that fighting is widespread and that the issue of the struggle between rebel military forces and Government forces is still uncertain'.<sup>48</sup> The following month, the conflict was being identified in the Foreign Office as a 'civil war'.<sup>49</sup> Reports that the Nationalists had consolidated their hold in northern Spain led the Foreign Office to predict 'a long drawn-out conflict'.<sup>50</sup> From an early stage, there were concerns that the civil war could result in a fragmented Spain. A Foreign Office

<sup>46</sup> Cited in J. W. Foster, *A Century of Diplomacy* (New York: Houghton Mifflin, 1901), p. 367.

<sup>47</sup> Douglas Little, *Malevolent Neutrality: The United States, Great Britain and the Origins of the Spanish Civil War* (Ithaca: Cornell University Press, 1985).

<sup>48</sup> FO 371/20525/W7223 (23 July 1936).

<sup>49</sup> FO 20530/W8509, Pollock's memo (14 August 1936).

<sup>50</sup> FO 20526/W8509, Leigh Smith memo (8 June 1936).

official insisted, however, that the ‘maintenance of the integrity of Spain is certainly a British interest in the present circumstances, because if Spain were to disintegrate, the separate parts might very well fall under the control of one or other foreign country’.<sup>51</sup>

But there were other concerns voiced almost immediately in Cabinet. Anthony Eden, the foreign secretary, suggested that the Nationalists seemed to be gaining the upper hand and that there was ‘some danger that the civil war might end with a Government in power somewhat resentful of our attitude’.<sup>52</sup> It was also pointed out that the Italians would regard the conflict in Spain ‘not only as a struggle between Communism and Fascism but also and primarily as a field in which she might find herself able to strengthen her own influence and weaken Britain’s sea power in the Western Mediterranean’.<sup>53</sup> The military were clear that in the event of a future war, it was essential to maintain friendly links with Spain, or at the very least, secure her neutrality. It was argued that if Spain became an enemy of Britain and permitted hostile forces to operate from Spain then it would make Britain’s position very precarious because of the crucial role played by Gibraltar in maintaining the imperial links that depended on access to the Mediterranean. By the same token, if the harbours on the Spanish Atlantic seaboard were in enemy hands, then Britain’s communications with the Americas would also be rendered vulnerable. Under these circumstances, the British considered that they had no alternative but to pursue a policy that would preserve the existing balance of power.

The fact that the civil war in Spain was so quickly seen to have balance of power ramifications, made it much more difficult to determine how to respond to the conflict. Nevertheless, from an early stage it was agreed by the military as well as the Foreign Office that the British should abide by their long established policy of non-intervention. Lord Cranbourne, an under secretary of state, acknowledged that the 1820 White Paper written by the foreign secretary, Lord Castlereagh, in response to the Troppau Protocol, established non-intervention as a basic tenet of British foreign policy.<sup>54</sup> Although the British favoured a policy of non-intervention, Eden, the foreign secretary, argued initially that the British were also in a strong position to act as a mediator because the ‘victory of either extreme would be most unwelcome to us so that we must be up and doing in favour of compromise whenever opportunity affords’.<sup>55</sup> By this time, however, the British were already heavily involved in the attempt to implement the French suggestion of a collaborative policy to prevent arms from reaching either side in the Spanish Civil War.

Initially, the Foreign Office reaction to the French proposal was rather cool. Sir George Mounsey argued that it would be a mistake to ‘*tie our hands* to any agreement which is not practically universal’.<sup>56</sup> Another Foreign Office official noted that the British should remain ‘completely impartial and free to pursue the policy of non-intervention’.<sup>57</sup> Nevertheless, the French plan was soon being given serious consideration. One official commented that while there were ‘several possible courses of action ... assistance to the rebels must of course be ruled out as contrary to all our

<sup>51</sup> FO 371/21285/W3322, Sargent memo (1 November 1937).

<sup>52</sup> 23/86, Cabinet Papers (28 October 1936).

<sup>53</sup> 24/264, Cabinet Papers (31 August 1936).

<sup>54</sup> F. S. Northedge, *The Troubled Giant – Britain Among the Great Powers 1916–1939* (London: LSE/G. Bell & Sons, 1966), p. 441.

<sup>55</sup> FO 371/20537/W10351 5/22, Eden memo (3 September 1936).

<sup>56</sup> FO 371/20526/W7504 5/23 (2 August 1936).

<sup>57</sup> FO 371/20526/W7504, Mounsey to Halifax (2 August 1936).

principles of correctness and justice'.<sup>58</sup> The British initially suggested informal conversations amongst the major powers. The Italians, however, called for a commission. Although the Germans rejected this suggestion, the British set up an internal interdepartmental committee to handle the issue of non-intervention and then within a few days they succeeded in getting general international agreement on a Non-intervention Committee that would meet in London.<sup>59</sup> The aim of the committee was to establish and police an arms embargo.

Although the British initiated the standard practice for dealing with civil wars, by adopting a policy of non-intervention and endeavouring to ensure that all other states complied with this practice, they quickly began to diverge from established procedures. Soon after the military insurrection, for example, the Republican government indicated that they were going to establish a blockade. Evelyn Shuckburgh argued that an effective blockade amounted to recognition by the Republicans of the belligerent status of the Nationalists.<sup>60</sup> A direct parallel then existed with the American Civil War and it was acknowledged that this was the leading precedent.<sup>61</sup> But in the context of Spain, however, the British insisted that the legality of the blockade could only be established after the insurgents had been granted belligerent status by the British.<sup>62</sup> But the government proved unwilling to take this step. Although the need to grant belligerent status to the Nationalist Government was discussed throughout the civil war, the time was never considered to be appropriate and so the move was always pushed into the future. The Cabinet failed to respond to the blockade because it wanted a more dramatic development to justify the decision.

In mid-October 1936, for example, the Cabinet decided to recognise the insurgents as belligerents when they captured Madrid.<sup>63</sup> But the Republicans then managed to hold Madrid. In the meantime, Germany and Italy announced on 18 November that they were granting the Nationalist Government *de jure* status. But this move was certainly not in line with established practice. As a consequence, Eden was forced to rethink the existing policy. He decided to delay granting belligerent status because it would leave the Government open to the charge that Britain was following in the wake of the dictators' policy. But the government was also constrained by domestic factors. As Neville Chamberlain, the prime minister, argued the following year, if Franco was granted belligerent status, at that juncture, then the government's opponents would argue that the move 'revealed the Government's policy in its true light, which they had always claimed was support for Franco'.<sup>64</sup> The failure to give *de facto* recognition to the Nationalist Government was a source of persistent irritation within the Foreign Office. One official noted in frustration that 'ever since September 1936, by our whole course of action we have admitted and could not deny that there was a war and that Franco was a party'.<sup>65</sup>

The British failure to grant belligerent status to the Nationalists was inconsistent with their policy of defending the Non-intervention Committee which presupposed

<sup>58</sup> FO 371/20573/W9717, Mounsey to Cadogan (19 August 1936).

<sup>59</sup> FO 371/20575/W10587 (3 September 1936); Stephanie Kleine-Ahlbrandt *The Policy of Simmering: A Study of British Policy During the Spanish Civil War* (Hague: Martinus Hyoff, 1962), p. 13.

<sup>60</sup> FO 371/20530/W8554 3/39 (13 August 1936).

<sup>61</sup> FO 371/20529/W8234 3/40 (10 August 1936).

<sup>62</sup> FO 371/20530/W8554 3/41 (13 August 1936).

<sup>63</sup> 23/85, Cabinet Papers (21 October 1936).

<sup>64</sup> 23/88 6/109, Cabinet Papers (30 June 1937).

<sup>65</sup> FO 371/22635/W738, Beckett memo (17 February 1938).

that the incumbent Republican government was confronting an insurgent Nationalist government that had been recognised by the international society as a belligerent. Under these circumstances, external parties were required to pursue a policy of neutrality. But the issue was complicated by the fact that the Germans and Italians, and then the Russians, were violating the arms embargo. It was clear that they had no interest in working within the normative framework provided by the international society. Unsurprisingly, the Republican Government complained that the British arms embargo had much larger consequences for them, because of the external military support being given to the Nationalists. A Foreign Office official accepted that it was difficult to respond to this argument, except to indicate that 'the political consequences of giving the legal government the facilities to which it is undoubtedly entitled would have been far too great to have been risked'.<sup>66</sup> British Cabinet members endeavoured to justify the position by portraying the Soviet Union as the main violator of the non-intervention policy. After Anthony Eden made this argument in the House of Commons, the War Office expressed surprise because it was not consistent with their evidence. There was also concern that Eden's statement would be used by Germany and Italy to justify their policies.<sup>67</sup> When Eden was informed that the Foreign Office was also keeping a record of the infringements of the non-intervention agreement, he noted, 'Glad, for I may have to justify my scarcely veiled allusions to the House today'.<sup>68</sup> But over time, the reluctance to recognise the Franco regime grew. It was argued that by 'granting belligerent rights to Franco under pressure we should undoubtedly be regarded in Europe as recognising the success not of him, but of Italy and Germany'.<sup>69</sup> It was argued that only after the German and Italian troops had been removed could Franco's belligerent status be recognised.

As the conflict in Spain persisted, however, and the general situation in Europe deteriorated, doubts emerged about the prevailing policy within the Cabinet. The societal implications of policy were subordinated to systemic considerations. By the start of 1937, Eden argued that Spain had become an international battleground and that 'the character of the future Government of Spain has now become less important to the peace of Europe than that the dictators should not be victorious in that country'.<sup>70</sup> By contrast, Lord Halifax reduced Spain to a 'tactical situation' where it was important not to 'lose sight of the main *disideratum* of not allowing our relations with Italy and Germany to deteriorate'.<sup>71</sup> Eden disagreed and argued that future relations with Germany would be conducted 'with very much greater advantage to ourselves if we had demonstrated beyond all possible doubt that in the Mediterranean there is a point beyond which the United Kingdom cannot be drawn by sapping and mining or by bluster and threats'.<sup>72</sup> Throughout 1937, it is clear from Eden's comments on Foreign Office documents that he is becoming increasingly disenchanted with and isolated from the prevailing British position. A Foreign Office official, for example, complains that 'instead of trying to wean General Franco away from the increasing German and Italian influence they (the Russians) have under the cover of non-intervention thrown him more into their arms'. Eden notes, 'There are others

<sup>66</sup> FO 371/20575/W10779 3/43 (7 September 1936).

<sup>67</sup> FO 371/20586/W16391 7/72 (23 November 1936).

<sup>68</sup> FO 371/20585/W15880 7/73 (18 November 1936).

<sup>69</sup> FO 371/21296/W13036 7/83 (6 July 1937).

<sup>70</sup> 24/267 9/150, Cabinet Papers (8 January 1937).

<sup>71</sup> FO 371/21296/W12187 9/151 (30 June 1937).

<sup>72</sup> 24/265 9/152, Cabinet Papers (14 December 1936).



who think that the democracies should have done more to help the Government, thus obviating this danger.<sup>73</sup> By the start of 1938, Eden's position had become untenable and he resigned in February.<sup>74</sup>

Although the Non-intervention Committee failed to prevent foreign intervention into the Spanish Civil War, it did pose an effective barrier to the establishment of an Anglo-Italian agreement. Despite the general consensus that an agreement could not be put in place prior to a settlement in Spain, there was no consensus about what would constitute a settlement. In May 1937, Eden had argued that the objective of the Non-intervention Committee would only be realised when the 'last foreigner' had been withdrawn and 'that unhappy country has been allowed to settle her own destiny in her own way'.<sup>75</sup> Some Foreign Office officials argued, however, that Britain should threaten to leave the committee if Germany and Italy failed to accept British proposals that were being put forward. But Lord Cranborne argued that, 'To take the initiative in breaking an agreement which has the overwhelming support of public opinion in this country and has after all fulfilled its main purpose of stabilizing a dangerous situation would be a great gamble.'<sup>76</sup> This position held though 1937, but after Eden's resignation, the prime minister argued that he had never assumed that the elimination of foreign troops from Spain was the *sine qua non* for an agreement with Italy.<sup>77</sup> The agreement with Italy was established in April 1938, pending a settlement of the Spanish question. But the British decision-makers were unable to agree on the definition of such a settlement. By the start of 1939, Alexander Cadogan was expressing irritation that the French would not let the Spanish War 'fizzle out'. Since it was clear that Franco was going to win, French policy 'merely prolongs the fighting – allowing Mussolini to dig further in'.<sup>78</sup> But within weeks the war did come to an end.

## Conclusion

The starting point for this article is R. J. Vincent's insight that from the nineteenth century onwards, the international order can be characterised in terms of a number of ground rules, one that embraces non-intervention and three that embrace intervention. Although most of the pieces in this Special Issue centre on intervention and in doing so extend the range of interventionary ground rules, the aim of this article is to bring into focus the non-intervention ground rule. When this is done, however, it becomes apparent that it is necessary to widen the conventional framework. In the first place, because of the importance of the Americas in the establishment of the non-intervention ground rule, at the start of the nineteenth century, it is necessary to recognise that the framework must embrace the Americas as well as Europe. This is very apparent in Vincent but it is also made clear in the literature on the development of the international legal approach to internal war. What Vincent fails to draw attention to, although it does become apparent in the analysis of the expansion of

<sup>73</sup> FO 371/21302/W22043 9/155 (23 December 1937).

<sup>74</sup> 23/92 9/156, Cabinet Papers (20 February 1938).

<sup>75</sup> FO 371/22651/W10243 9/144 (19 July 1938).

<sup>76</sup> FO 371/21335/W11004 9/147 (7 June 1937).

<sup>77</sup> 23/92 9/143, Cabinet Papers (2 March 1938).

<sup>78</sup> FO 371/24115/W1471 9/168 (25 January 1939).

international society in Bull and Watson, is that during the course of the nineteenth century, the ground rule relating to non-intervention is increasingly seen to relate to an exclusively metropolitan core and it becomes possible to see the emergence of a bifurcated international order. With the peripheral regions unprotected by the ground rule of non-intervention, they are inevitably highly susceptible to the ground rules relating to intervention.

Because this article concentrates on non-intervention, the case studies are both drawn from the metropolitan core. What the British response to the civil war in the United States revealed is that North America was firmly entrenched within the metropolitan core of the international order, with states on both sides of the Atlantic sharing a common framework for understanding how to interpret the conflict. Within this framework *de facto* recognition of the South was an appropriate legal response and did not violate the non-intervention ground rule. By the same token, although the British argued strenuously that the sale of the *Alabama* to the South did not violate their own neutrality legislation, they also accepted that their actions set a dangerous precedent, passed legislation to clarify this point, and agreed to take the legal dispute to arbitration in Geneva on the basis of the new legislation. This legislation made it clear that the sale of ships to the South had violated the non-intervention ground rule. The willingness of the British to pay compensation under these circumstances confirms that the two states were operating within the framework of a common international order defined at least in part by the norm of non-intervention.

The Spanish Civil War, by contrast, provides a case where there was evidence of the nineteenth-century international order breaking down with the British confronting three of the established European great powers blatantly disregarding the ground rule of non-intervention. The contrast with the international response to the American Civil War could not be starker. It could be argued, however, that the intervening powers, by supporting a party that shared their ideological proclivities, were simply reprising the approach to intervention and non-intervention adopted by the continental Europeans after the Napoleonic Wars. But in fact the continental belief that intervention in support of dynastic legitimacy was compatible with the international order established by the Congress of Vienna ran counter to a wider sense of international order that was being established by the British and Americans and it was ground rules underpinning this more expansive international order that prevailed. Moreover, in the Spanish Civil War, whereas Russia intervened in support of the Republican government, the Italians and Germans had gone to the support of the Nationalists. There was, therefore, no agreement amongst the intervening parties on the grounds for intervention. From this perspective, it can be argued that the conflict anticipated, at least to some extent, the shape of events that characterised the Cold War international order, where within each sphere of influence the ground rule of non-intervention could be trumped by a ground rule associated with intervention in favour of a government willing to activate the ideological tenets within the particular sphere of influence.

What the case study reveals is the British endeavouring to follow the tenets of the ground rule of non-intervention in a vain attempt to bolster the established international order. But because the intervening parties were all considered to be posing a fundamental threat to this order the British felt it important not to pursue a line that could be seen to be supporting either the Russians or the Germans and Italians.

The issue was further complicated by the strategic importance of Spain in any future conflict, on the one hand, and the desire to wean the Italians away from the Germans, on the other. These various factors help to explain why the British persistently put off the decision to give *de facto* recognition to the Nationalists as they had done in the case of the South in the American Civil War, which was seen to be the most relevant precedent. The fact that the issue of recognition was recurrently debated throughout the civil war reinforces the claim that the British were desperate to maintain the established international order. In fact there was little chance of success. Although the Spanish Civil War is often depicted as a dress rehearsal for the Second World War, from the standpoint of the ground rules governing intervention and non-intervention it was closer to setting the scene for the rules that came into play with the onset of the Cold War.