

The concept of intervention

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Abstract. Since the end of the Cold War, the number of books and articles on intervention in world politics has grown dramatically. Yet curiously little of this work subjects the concept of intervention itself to critical scrutiny. Scholars often preface their analyses with definitional discussions about what intervention is, but these definitions take a common form, conceiving intervention within a ‘sovereignty frame’. This article questions this conception of intervention, arguing that it distorts our understanding of interventionary practices and forms of reasoning that occurred in non-sovereign international orders. After exploring the sovereignty framing of intervention in greater detail, I advance an alternative conception. International orders are systemic configurations of political authority: they comprise multiple units of such authority, each with its own realm of jurisdiction, organised according to some principle of differentiation. Importantly, this principle need not be territorial: it could be functional, for example. International intervention is the transgression of a unit’s realm of jurisdiction, conducted by other units in the system. Unlike the sovereign framing of intervention, this conception is equally applicable to the interventionary ideas and practices of diverse international orders, and provides a better basis on which to understand how thinkers in different historical contexts have reasoned about intervention.

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Since the end of the Cold War, the number of books and articles on intervention in world politics has grown dramatically. Responding to crises in Somalia, Rwanda, Bosnia, Kosovo, Iraq, the Sudan, Libya, and, most recently, Syria, authors have wrestled with a variety of issues, questions, and dilemmas, some normative, others empirical. When is intervention legitimate? Who is entitled to intervene, and under what conditions? What kinds of domestic problems merit intervention? Under what conditions are interventions successful? What implications do interventionary practices have for the preservation of international order?

Curiously, very little of this work subjects the concept of intervention itself to critical scrutiny. Most reflections on the concept focus on the meaning of its attendant adjectives. What do we mean by ‘international’ intervention, ‘humanitarian’

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intervention, or 'legitimate' intervention? Do unilateral interventions qualify as 'international', is an intervention 'humanitarian' if the interveners had mixed motives, and are interventions conducted without a Security Council mandate 'legitimate'? Intense debates surround these definitional issues, but the operative noun – that of 'intervention' – is often taken for granted. Scholars frequently preface their analyses with definitional discussions about what intervention is. But these definitions usually take a common form, with intervention conceived within a 'sovereignty frame'. It is assumed that it takes place within a system or society of sovereign states, that the intervening actors are sovereign states, and that the targets of intervention are sovereign states. Furthermore, practices of intervention are understood as violations of sovereignty, of the supreme yet territorially-demarcated authority of the state.

In an international order characterised by universal state sovereignty, such as the one we live in today, intervention may well be practiced and experienced by sovereign states. But historically international orders have taken very different forms. In fact, the universalisation of the sovereign state is a strikingly new development, fully realised only with post-1945 decolonisation. Ideas and practices of intervention pre-date this development by many centuries, but they were executed and justified in very different systemic conditions. The present liberal international order evolved during the nineteenth and twentieth centuries, but for most of its history, political authority in the Western core was organised on the principle of sovereignty while the principle of empire structured authority relations with the non-Western periphery. Europe's absolutist international order, which spanned the seventeenth to nineteenth centuries, also conjoined sovereignty in the core with empire abroad, but rested on very different normative foundations. The starkest contrast, however, is the heteronomous international order that prevailed in Europe until the sixteenth century. Interventionary practices occurred across this long span of history, but they took place in very different configurations of political authority from today's universal system of sovereign states.

This article challenges the conventional framing of intervention, and advances an alternative conception that better accommodates the diverse ideas and practices that have characterised different international orders. Most contributions to this Special Issue focus on interventionary practices under conditions of high to late modernity, especially from the beginning of the nineteenth century. These were but particular manifestations of intervention, however, conducted and justified under particular systemic conditions: sovereignty conjoined to empire until the 1970s, and universal sovereignty thereafter. My purpose here is to advance a conception of intervention that not only accommodates these variations but also interventionary practices in very different kinds of orders, like that of heteronomous Europe. International orders, I will suggest, are best conceived as systemic configurations of political authority: they comprise multiple units of authority, with their own realms of jurisdiction, organised according some principle of differentiation. Importantly, this principle need not be territorial: it could be functional, for example (as in the medieval separation of spiritual and temporal authority). International intervention is the transgression of a unit's realm of jurisdiction, conducted by other units in an order, acting singly or collectively. Interventions are always transformative; they are transgressions to reconfigure identities, institutions, and practices. And they are always justified. Interventions violate established principles of differentiation, and their legitimacy requires a normative defence.

One advantage of this reconception is that it enables us to better comprehend how thinkers in very different historical contexts have reasoned about the legitimacy of international intervention. Thinkers never reason freely about intervention; their thinking is always structured by pre-existing assumptions and vocabularies. Some of these are moral, concerning the values intervention might or might not serve: natural law, civilisation, human rights, etc. But, importantly for our purposes, reasoning about intervention is also structured by politico-spatial assumptions, by understandings of how political authority is distributed and differentiated within a given order. Contemporary debates about the Responsibility to Protect, for example, assume that the world is divided into territorially-demarcated sovereign states, and debate revolves around the nature and scope of sovereign authority. As the second half of the article demonstrates, though, earlier arguments about the legitimacy of intervention were based on very different politico-spatial assumptions. In the early sixteenth century, Francisco de Vitoria considered the legitimacy of the Spanish intervention in the Americas. Yet his reasoning was framed by a very different set of assumptions about the prevailing configuration of political authority. While expressions of territorial sovereignty were emerging at this time, Vitoria assumed a largely heteronomous order, in which authorities were differentiated functionally, and in which ownership and jurisdiction were not coextensive.

In defining intervention broadly, and seeing it as a practice that characterised international orders well before the nineteenth century, my argument differs from that advanced by Edward Keene in this Special Issue. For Keene, two things mark the emergence of intervention as a distinctive international practice: the explicit use of the language of ‘intervention’, and the perception that intervention is a practice distinct from war. In general, I am unpersuaded by the first of these kinds of argument. Just as the meanings attached to words can change over time, actors can use different words to refer to the same thing.¹ What matters in identifying ideas and practices of intervention is not telltale terminology, but the form of actors’ arguments (in particular, an emphasis on the justified transgression of established lines of differentiation between units of authority) and the nature of their practices. I am also unpersuaded by the notion that interventionary practices can be said to occur only where there is a perception that intervention is a practice distinct from war. In the nineteenth century, as Keene observes, actors began drawing this distinction, narrowing the domain of ‘war’ and defining intervention as a particular category of political coercion. Two things are worth noting here, however. First, this exercise in categorical differentiation was, among other things, a consequence of the rise of positive international law and the move, over time, to codify, in concrete international agreements, what counts as a legitimate, or illegitimate, use of force. Differentiation was, in part, a function of codification. Second, prior to the nineteenth-century actors and thinkers understood the domain of war more broadly, often reasoning within traditions of just war thinking that admitted a broader spectrum of conflicts. It was in this frame that arguments about justified or unjustified transgressions of established lines of differentiation were made and understood: arguments about intervention, that this. From the perspective advanced here, therefore, interventionary ideas and practices can exist with or without the signature terminology,

¹ I have discussed this issue at length with respect to identifying the existence of the politics of individual rights. See Christian Reus-Smit, *Individual Rights and the Making of the International System* (Cambridge: Cambridge University Press, 2013), pp. 45–6.

and whether or not they are seen as one form of war or as a separate category of political coercion. I am interested in forms of argument and the nature of practices.

The sovereignty frame

There are several widely acknowledged features of international interventions about which I agree. First, interventionary practices are ubiquitous features of world politics. Even in the twentieth century, where there has been a strong norm of non-intervention, the practice has recurred.² Second, interventions generally occur where there are asymmetries of material capability. Weak states generally do not intervene in strong ones.³ Third, interventions are jurisdictional violations. As Rosalyn Higgins explains, the ‘term ‘intervention’ only has meaning measured against the question ‘intervention against what?’ and the answer has to be ‘intervention against a state’s domestic jurisdiction’.⁴ Below I contest the assumption that we should only be talking about the jurisdiction of the ‘state’, but the general insight that interventions are violations of jurisdiction is a crucial one. Sending troops into a physical territory is not what makes an intervention an intervention: it is that the deployment was against the will of an existing political and legal authority.

While I accept these general propositions, I am less comfortable with the standard way in which the concept of intervention is framed. As noted in the introduction, it is commonly assumed that intervention takes place within an international order where political authority is distributed according to the principle of sovereignty – where the state enjoys supreme authority within its territorial borders, and recognises no higher authority beyond those borders. Political authority in such a world is bundled into exclusive, territorially discrete units, and the cardinal norm sustaining the systemic configuration of political authority is non-intervention; the prohibition of threats against ‘the territorial integrity and political independence’ of one state by another.⁵ Intervention, conversely, is conceived as the violation of this principle, as the transgression of a sovereign state’s exclusive, territorially-defined, domain of political authority.

This conceptual framing permeates the literature on intervention, and is seldom questioned. This is clearly apparent in Gene Lyons and Michael Mastanduno’s account. In contrast to related practices of isolation and influence, they argue, ‘*Intervention* involves the physical crossing of borders with a clearcut purpose, such as transporting relief workers into the territory of a sovereign state to deliver humanitarian assistance, or bombing a country’s nuclear or chemical facilities to stem the development of weapons of mass destruction.’⁶ ‘International intervention’, they go

² Hedley Bull, ‘Introduction’, in Hedley Bull (ed.), *Intervention in World Politics* (Oxford: Oxford University Press, 1984), p. 2.

³ See *Ibid.*, p. 1; and Stephen D. Krasner, ‘Sovereignty and Intervention’, in Gene M. Lyons and Michael Mastanduno (eds), *Beyond Westphalia: State Sovereignty and International Intervention* (Baltimore: Johns Hopkins University Press, 1995), p. 229.

⁴ Rosalyn Higgins, ‘Intervention and International Law’, in Bull (ed.), *Intervention in World Politics*, p. 31.

⁵ This is how the principle of non-intervention is worded in Article 2.4 of the Charter of the United Nations. Available at: {<http://www.un.org/en/documents/charter/chapter1.shtml>} accessed 4 December 2012.

⁶ Gene M. Lyons and Michael Mastanduno, ‘Introduction: International Intervention, State Sovereignty, and the Future of International Society’, in Lyons and Mastanduno (eds), *Beyond Westphalia*, p. 10.

on to argue, ‘may be understood as the crossing of borders and infringements of sovereignty carried out by, or in the name of, the international community.’⁷ Lyons and Mastanduno insist that sovereignty has always been compromised, that ‘all states – including major powers – limit their control over their own affairs by the treaty obligations that they assume and by their participation in international organizations’.⁸ These practices are a normal part of international life, however, all ‘carried out within the structure of the state-centric system that has evolved since the settlement of Westphalia’.⁹ The question for Lyons and Mastanduno is whether contemporary practices of intervention push the system ‘beyond Westphalia’. Their answer is a clear no. At the time of writing, they saw no evidence that interventionary practices were eroding the basic organising principles of the Westphalian order.¹⁰

Similar assumptions structure attempts to define the more circumscribed practice of ‘humanitarian’ intervention. According to Ellery Stowell’s oft-cited definition, ‘the theory of intervention on the ground of humanity . . . recognizes the right of one state to exercise international control over the acts of another in regard to its internal sovereignty when contrary to the laws of humanity’.¹¹ For J. L. Holzgrefe, humanitarian intervention is ‘the threat or use of force across state borders by a state (or group of states) aimed at preventing or ending widespread and grave violations of the fundamental human rights of individuals other than its own citizens, without permission of the state within whose territory force is applied’.¹² Francis Kofi Abiew argues that it is ‘an act performed for the purpose of compelling a sovereign to respect fundamental human rights in the exercise of its sovereignty prerogatives’.¹³ Jennifer Welsh defines it as ‘coercive interference in the internal affairs of a state, involving the use of armed force, with the purposes of addressing massive human rights violations or preventing widespread human suffering’.¹⁴ Thomas Weiss argues that intervention, in general, ‘consists of various forms of nonconsensual action that directly challenge state sovereignty’,¹⁵ and follows Adam Roberts in defining humanitarian intervention as ‘the use of armed force in another state without the consent of its authorities, and with the purpose of preventing widespread suffering or death among the inhabitants’.¹⁶

Even those who seek to historicise the concept of intervention seldom escape the sovereignty frame. Marc Trachtenberg rightly argues that intervention needs to be studied historically, otherwise we have no way of knowing whether contemporary ideas and practices are novel and potentially revolutionary or merely the most recent

⁷ Ibid., p. 12.

⁸ Ibid., p. 15. Lyons and Mastanduno express here an argument first articulated by Stephen Krasner in his ‘Westphalia and All That’, in Judith Goldstein and Robert O. Keohane (eds), *Ideas and Foreign Policy* (Ithaca: Cornell University Press, 1993), pp. 66–94.

⁹ Ibid., p. 15.

¹⁰ Ibid., p. 264.

¹¹ Ellery Stowell, *Intervention in International Law* (Washington DC: John Byrne & Co., 1921), p. 53.

¹² J. L. Holzgrefe, ‘The Humanitarian Intervention Debate’, in J. L. Holzgrefe and Robert O. Keohane (eds), *Humanitarian Intervention: Ethical, Legal, and Political Dilemmas* (Cambridge: Cambridge University Press, 2003), p. 18.

¹³ Francis Kofi Abiew, *The Evolution of the Doctrine and Practice of Humanitarian Intervention* (The Hague: Kluwer Law International, 1999), pp. 30–1.

¹⁴ Jennifer M. Welsh, ‘Introduction’, in Jennifer M. Welsh (ed.), *Humanitarian Intervention and International Relations* (Oxford: Oxford University Press, 2004), p. 3.

¹⁵ Thomas G. Weiss, *Humanitarian Intervention* (Cambridge: Polity Press, 2007), p. 18.

¹⁶ Adam Roberts, ‘The So-Called “Right” of Humanitarian Intervention’, in *Yearbook of International Humanitarian Law, Volume Three* (The Hague: T.M.C. Asser, 2002), pp. 3–51.

examples of practices that have long characterised International Relations.¹⁷ Yet, in his historical analysis the concept of intervention remains firmly tied to sovereignty. He rejects excessively broad definitions of intervention, arguing that they encompass such a broad range of international practices – from imperialism to the spread of religious beliefs – that they become synonymous with international relations more generally. Properly understood, intervention is a product of the age of nationalism, he suggests. Accompanying the ideal of the nation-state was the principle of non-intervention, the idea that nations should be able to plot their own paths free from external interference. Intervention, he contends, came to be seen as the exceptional violation of this principle: it ‘referred to the use of force in those exceptional cases where a line had been crossed and national sovereignty, the legitimacy of which was recognized in principle, need not be respected’.¹⁸

Victoria Tin-bor Hui also advocates an historical approach, but moves beyond Trachtenberg’s conventional history to excavate ‘the genealogy of sovereignty and intervention’.¹⁹ Her key move is to treat sovereignty as an ‘historical variable’, one shaped in part by patterns of international recognition, and in part by variations in state-society relations.²⁰ Yet her discussion of intervention, like Trachtenberg’s, remains anchored to sovereignty, however variable it might be. Instead of thinking about sovereignty in absolute terms, she argues, we need to think about ‘relative sovereignty’. And instead of seeing intervention as a violation or abrogation of sovereignty, we need to see it as a recurrent practice that has helped to constitute forms of relative sovereignty.²¹ But compelling as these moves are – replacing absolute with relative sovereignty and casting intervention as constitutive instead of corrosive – sovereignty still frames how intervention is understood.

The limits of the frame

Conceiving intervention within the sovereignty frame is reasonable perhaps when it comes to today’s international order, in which the principle of sovereignty informs the basic distribution of political authority, and intervention is practiced and experienced by sovereign states or their agents. It is problematic, however, when it comes to earlier international orders, or even to the liberal order in its nineteenth-century form.²² As John Ruggie observed some time ago, the basic arrangement of any international order is determined by the prevailing mode of differentiation, or how political units are ‘separated and segmented’.²³ In the present international order, units are

¹⁷ Marc Trachtenberg, ‘Intervention in Historical Perspective’, Unpublished Manuscript (23 January 1993), p. 3.

¹⁸ *Ibid.*

¹⁹ Victoria Tin-bor Hui, ‘Problematizing Sovereignty: Relative Sovereignty in the Historical Transformation of Interstate and State-Society Relations’, in Michael C. Davis, Wolfgang Dietrich, Bettina Scholdan, and Dieter Sepp (eds), *International Intervention in the Post-Cold War World: Moral Responsibility and Power Politics* (Armonk: M.E. Sharpe, 2004), p. 83.

²⁰ *Ibid.*, pp. 87–94.

²¹ *Ibid.*, pp. 94–8.

²² I use the term ‘international order’ broadly here, encompassing all political orders characterised by: (a) multiple units or centers of political authority, and (b) ‘systems effects’ that are not reducible to individual units or centers. On ‘systems effects’, see Robert Jervis, *Systems Effects: Complexity in Political and Social Life* (Princeton NJ: Princeton University Press, 1997).

²³ John Gerard Ruggie, ‘Continuity and Transformation’, *World Politics*, 35:2 (1983), p. 2.

differentiated according to the principle of sovereignty. But as noted above, for three centuries before the emergence of this configuration of authority, the prevailing mode of differentiation was bifurcated: states within the metropolitan core were segmented on the basis of sovereignty, but the very same states were hierarchically connected to peripheral politics on the principle of empire. As Keene explains, Europeans were ‘adopting one kind of relationship, equality and mutual interdependence, as the norm in their dealings with each other, and another, imperial paramountcy, as normal in their relations with non-Europeans’.²⁴ Before the seventeenth-century emergence of this bifurcated arrangement, the international order was heteronomous. There were multiple centers of authority – the Holy Roman Empire, the Papacy, monarchs and princes, local lords, and increasingly powerful cities – all with different yet overlapping jurisdictions. The ‘spatial extension of the medieval system of rule’, Ruggie contends, ‘was structured by a nonexclusive form of territoriality, in which authority was both personalized and parcelized within and across territorial formations and for which inclusive bases of legitimation prevailed’.²⁵ Europe’s early territorial empires articulated with the late heteronomous order, with non-European regions incorporated within its highly variegated configuration of political authority.

A profound disjuncture thus exists between intervention conceived within the sovereignty frame and the nature of the international orders that predated the very recent emergence of a universal system of sovereign states. Neither the units practicing intervention in these systems, nor the entities subject to intervention, were territorially-demarcated sovereign authorities. Even where sovereignty increasingly defined relations between European states, many of these states were simultaneously empires, and even where formal empire did not structure their relations with the non-European world, notions of civilisational hierarchy did. Yet interventionary ideas and practices were as much a feature of these earlier orders as they are of the contemporary international order. As we shall see, sixteenth-century writers such as Vitoria saw the Spanish use of force in the Americas as an intervention – an intervention into a different cultural universe, an intervention into a different realm of political authority. Their reasoning about the justice or injustice of this intervention was structured by a different set of politico-spatial understandings than contemporary reasoning, however: heteronomy not sovereignty. That such practices existed prior to the twentieth century is widely acknowledged in the literature. Indeed, it is common to trace them back to the sixteenth- and seventeenth-century worlds of Gentile, de Vitoria, and Grotius. There is little if any recognition, however, that these practices occurred across very different systemic configurations of political authority.

This is not only a problem of anachronism, it is analytically and heuristically unhelpful. Reading historical ideas and practices of intervention through the sovereignty frame distorts what we see and how we interpret it. It leads us to misunderstand the nature of the units involved in interventions, both the interveners and their targets. It leads us to misinterpret their intents and purposes, as well as their self-understandings. And it leads us to misconstrue the structural implications of intervention, its role in reproducing or unsettling prevailing systemic configurations of political authority. Most importantly, it deprives us of the deeper insights into the nature of different

²⁴ Edward Keene, *Beyond the Anarchical Society: Grotius, Colonialism and Order in World Politics* (Cambridge: Cambridge University Press, 2002), p. 6.

²⁵ John Gerard Ruggie, ‘Territoriality and Beyond: Problematizing Modernity in International Relations’, *International Organization*, 47:1 (1993), p. 150.

international orders that a focus on ideas and practices of intervention might yield. If intervention is a transgression of political authority, then it is a potentially illuminating window on the distribution and legitimation of such authority in different international orders. And to the extent that interventionary ideas and practices challenge these distributions, they may also illuminate processes of fundamental international change.

Intervention reconceived

It is unfashionable in some quarters of IR to seek conceptual clarification or definition, with scholars rightly arguing that all acts of conceptualisation and definition are acts of power. Every such act is made from a particular standpoint, every act brings certain features of international life into focus while obscuring others, and every act squeezes diverse human practices into a single definitional frame. Because of this, Friedrich Kratochwil is reluctant to define 'intervention', to give it a fixed, decontextualised meaning. His goal is to understand the changing institution of sovereignty and 'to derive criteria for assessing the (im)permissibility of intervention'.²⁶ Constructing 'nominal definitions' or 'historical etymologies' cannot help in this task, he argues. 'Only when we consider both practice and its justification can we grasp the continuity and change in this institution without succumbing to the fallacy of structural persistence or to largely platitudinous generalizations.'²⁷ While sympathetic to this position, analysing interventionary practices without even a working conception of intervention is fraught with difficulties. On what basis, for example, does one identify and select interventionary practices and justifications for study? One might reply that the language and discourse of historical actors should guide our inquiries, not abstract, historically and culturally disembedded concepts. This is the approach Martha Finnemore adopts. 'Rather than looking at an event and asking, is it intervention?', she writes, 'I looked at activities that the participants describe as intervention and ask inductively, What is it?'²⁸ While this appears to give scholars a non-definitional basis on which to identify interventionary practices, it too is problematic, though. As noted in the introduction, historical actors often engage in practices, and make justificatory claims, without describing what they are doing, or arguing their cases, with recognisable signature terms ('intervention', 'sovereignty', 'rights', 'responsibilities', 'democracy', etc.). If this is true, then we return to the need for some conception or definition of intervention that enables us to distinguish analytically relevant practices and claims.

While arriving at some conception of intervention might be analytically necessary, however, we should avoid conceptions that are drawn so narrowly that they either exclude ideas and practices from different cultural and historical contexts 'by definition' or utterly distort them by squeezing them into context-bound historical frames, pathologies clearly apparent in the sovereign framing of intervention. The reconception advanced here seeks to balance the need for conceptual clarity with that of

²⁶ Friedrich Kratochwil, 'Sovereignty as *Dominium*: Is there a Right of Humanitarian Intervention?', in Lyons and Mastanduno (eds), *Beyond Westphalia*, p. 22.

²⁷ *Ibid.*

²⁸ Martha Finnemore, *The Purpose of Intervention: Changing Beliefs about the Use of Force* (Ithaca: Cornell University Press, 2004), p. 10.

conceptual inclusiveness, enabling us to speak sensibly about ideas and practices of intervention while accommodating practices from different historical orders.

It is useful here to return to basics. According to the Oxford English Dictionary, to ‘intervene’ is to ‘come in as something extraneous’, ‘to come between so as to prevent or modify a result’. Several things about this are worth noting. First, the idea of intervention assumes an initial realm of differentiation: it assumes the extraneous and the intrinsic, the exogenous and the endogenous. Without this assumption of initial differentiation, the idea of coming in as something extraneous makes no sense. Second, intervention is an act of transgression, a crossing or violation of lines of differentiation. To intervene is to enter from the outside as an outsider. Third, intervention is purposive, it is to transgress with intent. Transgressions that occur by accident, or are the product of incremental practices (bracket creep so to speak), are not interventions properly understood. Finally, intervention is a transformative act. Its purpose is ‘to prevent or modify a result’. No actor intervenes to observe or leave untouched. Actors intervene to alter endogenous processes and to bring about outcomes that would otherwise not have occurred. Interventions often have unintended instead of intended consequences, but transformative intentions animate them nonetheless.

‘International’ interventions, it hardly needs saying, occur in international orders. Hedley Bull famously defined an international order as a purposive arrangement of sovereign states, in which the preservation of the society of states, ensuring the territorial independence of individual states, and limiting interstate conflict constitute the underlying purposes, and basic institutional practices, such as diplomacy and international law, define the arrangement.²⁹ While commonly used, this definition is open to several criticisms, not the least that it understands the ‘arrangement’ of an international order too narrowly. International institutional practices do affect the contours of an international order, but its basic arrangement is determined by something far more fundamental – the basis on which political units are differentiated from one another, or as Ruggie put it, how they are ‘separated and segmented’. Bull’s definition assumes that units are differentiated on the basis on territorial sovereignty, but as I have already suggested, differentiation is a variable: different international orders exhibit different modes of differentiation. In some orders differentiation is indeed based on sovereignty, but most in world history have been based on markedly different principles: heteronomy, suzerainty, empire, or some combination of these. To encompass these varied forms, I adopt a broad conception of international orders, not confining them to systems of sovereign states. As anticipated, I define them as systemic configurations of political authority. They are ‘systemic’ because the arrangement as a whole has structural dynamics that condition the identities, interests, and behaviour of the constituent units. They are systemic ‘configurations’ because they comprise multiple units, understood as recognised constituent elements of the order. And, lastly, they are systemic configurations of ‘political authority’ because their constituent units are loci of legitimate power.

Historically, international orders have not been global: today’s is unique in this regard. Orders have at times spanned several geographic regions, but until recently they have never encompassed all of the world’s polities. Indeed, at various points in history several, more or less coherent, international orders have coexisted: Europe’s

²⁹ Bull, *The Anarchical Society*, ch. 1.

heteronomous order and the Chinese order of the Yuan and Ming dynasties, for example. This having been said, though, international orders never have clearly demarcated boundaries, their frontiers have always been blurred and fluctuating. This is partly because, as we have observed, few international orders have been organised on the principle of sovereignty, where it might be possible to draw a definitive line around a set of constituent territorial units. Where authority is organised functionally, the outer limits of an order are harder to define: the territorial reach of sacral authorities, for example, has often differed from those of temporal authorities. The blurred boundaries of international orders are also a product of the politics of recognition, however. As systemic configurations of political authority, international orders are realms of mutual recognition. Their constituent units survive not just because of their respective material capabilities, but because they recognise one another as legitimate *loci* of authority. Such recognition need not be equalitarian, as between sovereign states, it can also be hierarchical, like that between suzerain and tributary states. What matters here is that the boundaries of an order are in part determined by struggles over recognition. It is not a simple case of drawing a line between those entities included and those excluded, however. Entities denied recognition are not outside an order; indeed, struggles over their recognition draw them into an order's most fundamental constitutive processes. The frontiers of an international order, in this respect, are defined not by the outer limits of inclusion – by a perimeter encompassing all recognised authorities – but by the processes of recognition that produce and reproduce the order itself.

If all interventions take place within preexisting realms of differentiation, international interventions occur in realms defined by prevailing configurations of political authority. As in all contexts, to intervene is to enter as something extraneous. Yet two things need noting here. To begin with, in international orders both the interveners and those subject to intervention are units of political authority. Second, these units, as well as the nature and meaning of intervention, vary with the systemic configuration of authority. In sovereign orders, like the present one, the units are sovereign states, collectivities of such, or multilateral organisations constructed and licensed by states. And to intervene – to enter as something extraneous – is to cross a boundary delimiting exclusive, territorially-demarcated jurisdictional realm. In a heteronomous order, by contrast, the units are diverse entities – emperors, popes, princes, monarchs, local lords, cities, etc. – defined not by their exclusive territorial authority, but by their particular and distinctive functional authority. The authority of these units overlaps spatially: a European peasant, for example, would have been subject simultaneously to imperial, papal, and municipal authorities, but each in a different realm of social life. To intervene in such a context was not to cross a boundary between exclusive, territorially-demarcated authorities, but to encroach on a functional realm of jurisdiction – a Pope intervening in an Emperor's claimed realm of temporal authority, for example, or the latter trespassing on the former's realm of sacral authority.

Historically, the purposes animating international interventions have been many and varied: to punish violations of natural law, suppress slavery, prevent revolution, defend property rights or the rights of international creditors, change the nature of domestic political systems, protect religious minorities, prevent gross human rights violations, etc. Whatever their underlying purposes, however, interventions always require justification. Indeed, because interventions are transgressions – crossings or

violations of established lines of jurisdictional differentiation – they have to be legitimised. The systemic configurations of political authority that characterise international orders reflect, and are sustained by, deep constitutional norms that define certain units of authority as legitimate, specify the scope of their respective authority, and define how they stand in relation to one another.³⁰ These norms are embodied in, reproduced by, and inculcated through routinised social practices. By transgressing established lines of differentiation, international interventions contradict these deep constitutive norms and sustaining practices. This makes interventions inherently controversial, and if controversy is to be contained – rendered politically manageable – interventions require justification: norm violation demands a normative defense.

Justifications commonly take three broad forms. The first is what we might term ‘state of exception’ justifications. Here the basic norms and practices of the prevailing international order are affirmed, but intervention is cast as an emergency measure needed to sustain the order itself. Interventions authorised by the United Nations Security Council generally take this form, presented as they are as essential to the maintenance of international peace and security. The second is ‘norm permissive’. In this case the order’s deep constitutive norms are interpreted in such a way as to accommodate the intervention in question. The doctrine of the Responsibility to Protect arguably fits this case. The organising principle of sovereignty is not in question, but is said to be qualified by notions of state responsibility that make intervention legitimate to prevent gross human rights violations. The third type is ‘revolutionary’, challenging head on the basic norms undergirding an international order. Martin Wight once distinguished between ‘defensive’ and ‘offensive’ interventions, the former designed to shore up an international order, the latter to overturn it.³¹ Defensive interventions are usually justified with state of exception or norm permissive justifications. Offensive interventions, by contrast, demand markedly different rationales, often appealing to ideas of moral right or conceptions of justice that systemic norms purportedly contradict. Yet these values are almost always present in the extant normative universe, even if in tension with the norms undergirding the order. ‘All revolutionaries’, as Quentin Skinner observes, ‘are to this extent obliged to move backwards into battle.’³² In today’s international order, based on strong norms of non-intervention, interventions in the name of banishing tyranny and promoting democratic forms of governance might be considered ‘offensive’ in Wight’s terms, but the appeal to democracy draws on values integral to the liberal international order. But because revolutionary interventions challenge the constitutional norms of an international order, their justification is always precarious, and the default critique is that they constitute ‘war’ not ‘intervention’, the 2004 ‘war in Iraq’ being a case in point.

Reasoning in non-sovereign orders

When thinkers ‘reason’ about the legitimacy or illegitimacy of international intervention they are doing two things: they are ‘thinking through’ the issue, and they are

³⁰ On the constitutional structures of international orders, see Christian Reus-Smit, *The Moral Purpose of the State* (Princeton NJ: Princeton University Press, 1999); and Daniel Philpott, *Revolutions in Sovereignty* (Princeton NJ: Princeton University Press, 2001).

³¹ Martin Wight, *Power Politics* (Harmondsworth: Penguin, 1986), p. 197.

³² Quentin Skinner, *Visions of Politics, Vol.1: Regarding Method* (Cambridge: Cambridge University Press, 2002), pp. 149–50.

participating in a debate, giving 'reasons'. When doing the former, their reasoning is framed by assumptions that inform and delimit how they understand the context, practice, and ethical status of intervention. Some of these are normative, to do with the values intervention serves or undermines. Others concern the politico-spatial universe in which intervention takes place, and that interventionary practices can reinforce or erode. That thinkers in different historical contexts have worked with, and within, different normative assumptions is widely acknowledged: we know that the principles of natural law that concerned sixteenth-century scholastics differ from the civilisational values that animated nineteenth-century thinkers, and both contrast with the human rights concerns that inform today's doctrine of Responsibility to Protect. What is less recognised, however, is the way in which contrasting politico-spatial assumptions affect the reasoning of thinkers in different kinds of international orders. Indeed, how thinkers reconcile, integrate, or navigate a given set of normative and politico-spatial assumptions has a significant effect on their resulting positions on intervention. Thinkers on intervention seldom write for their own edification, though; they are contributing to historically located, often culturally contingent, debates about the legitimacy of intervention, in general and in the particular. In this mode, their reasoning is constitutive in ambition: they are trying to elevate a particular set of normative principles and shape an order's systemic configuration of authority. When arguing about intervention their claims are invariably about recognition, about which entities have what kinds of rights and powers, and under what conditions these can be rightfully compromised. They seek, therefore, to shape their international order, conditioning its configuration of legitimate authority by intervening in the constitutive politics of recognition.

As we have seen, the conventional way of conceiving intervention holds politico-spatial assumptions constant: intervention is assumed to occur in an international order structured by the principle of sovereignty, where the units of analysis are sovereign states, and where the practice of intervention is understood as a transgression of sovereign rights. By abandoning this sovereign framing, the conception advanced here makes no fixed politico-spatial assumptions: it assumes, by contrast, that interventionary practices can occur in very different systemic configurations of authority. One advantage of this is that it enables us to better accommodate and comprehend the reasoning of thinkers writing in differently configured orders; thinkers whose understanding of the context, practice, and legitimacy of intervention were not premised on the existence of a universal sovereign order, and who were seeking to shape the contours of their international orders in distinctive ways. By way of illustration, this final section examines Vitoria's reasoning on the Spanish intervention in the Americas.

In the early sixteenth century, the bifurcated order that would structure international relations from the Peace of Westphalia until the early twentieth century was yet to emerge. The basic configuration of political authority in Europe remained heteronomous, even if this was increasingly complicated by the development of early forms of territorial sovereignty. Added to this, the second face of the bifurcated order – the zone of imperial rule beyond Europe – was only in its earliest stages of development: the extension of Spanish control in the Americas and Portuguese interests in the Indian Ocean. It was in this variegated configuration of political authority that Vitoria articulated his position on intervention, a position that was itself an intervention in debates about how this order ought to be understood and evolve.

Yet present-day scholars persist in reading early modern arguments about intervention, such as Vitoria's, through the sovereignty frame.³³ Even the excellent new volume edited by Stefano Recchia and Jennifer Welsh, *Just and Unjust Military Interventions*, which is committed to placing classic writings in their distinctive historical contexts, focuses on the milieu of ideas and conventions conditioning these writings. Largely neglected is the fact that early modern mediations on intervention were informed by a distinctive set of background assumptions about the systemic distribution of political authority.³⁴ William Bain's fine exposition of Vitoria's arguments on Spanish intervention is a case in point. Bain walks the reader through the complex theoretical reasoning behind Vitoria's thesis, and concludes that Vitoria's Christian universality amounts to a distinctive conception of world order. Yet Bain uses the term 'world order' to refer to a particular normative reconciliation of the values of the individual and independent community; he is not referring to a conception, or set of understandings, about the extant organisation of power and authority in the early modern international order.³⁵

While these scholars assume the sovereign context of early modern thought, others are more forthright, insisting that Vitoria understood the prevailing international order in sovereign terms. Martti Koskenniemi takes this position in a recent article on the Spanish contribution to the development of international law.³⁶ Koskenniemi attributes two key innovations to Vitoria: the claim that all individuals have private *dominium* rights under *ius gentium*, the purported 'law of nations', and the reconception of 'commonwealths' as sovereign states. The first of these gave individuals dominion (jurisdiction and ownership) over their actions and property, and the second provided the framework in which Vitoria is said to have considered the justice of wars to uphold such rights.³⁷ On the second of these apparent innovations, Koskenniemi claims that Vitoria 'defined the political commonwealth as the sovereign state', and declared 'the Holy Roman Empire – of which his king was the head – legally extinct.'³⁸ As noted above, Vitoria was writing in an international order under transition, in which expressions of territorial sovereignty were altering the heteronomous landscape. Not surprisingly, his reasoning reflects this shifting configuration of authority. Yet in claiming that Vitoria now saw the world in sovereign terms – that he understood commonwealths only as sovereign states – Koskenniemi misses the complexity of Vitoria's understanding of the prevailing order. For one thing, as we shall see below, Vitoria believed that all Christians could form of a commonwealth,

³³ See, for example, David's Rodogno's short survey of pre-modern and early-modern ideas about humanitarian intervention that precedes his otherwise excellent study of intervention in the nineteenth century. David Rodogno, *Against Massacre: Humanitarian Interventions in the Ottoman Empire, 1815–1914* (Princeton NJ: Princeton University Press, 2012), pp. 4–8.

³⁴ This is evident in Recchia and Welsh's emphasis on two questions they see as animating writers from the sixteenth to nineteenth centuries: what is the legitimate basis of intervention, and what is the likely impact of intervention and what are the associated risks? Missing here is any explicit interest in the very different politico-spatial assumptions that informed such historically disparate authors. See Stefano Recchia and Jennifer Welsh, 'Introduction: The Enduring Relevance of Classical Thinkers', in Recchia and Welsh (eds), *Just and Unjust Military Interventions: European Thinkers from Vitoria to Mill* (Oxford: Oxford University Press, 2013), pp. 15–16 (typescript).

³⁵ William Bain, 'Vitoria: The Laws of War, Saving the Innocent, and the Image of God', in Recchia and Welsh (eds), *Just and Unjust Military Interventions*, pp. 120–7 (typescript).

³⁶ Martti Koskenniemi, 'Empire and International Law: The Real Spanish Contribution', *University of Toronto Law Journal*, 61:1 (2011), pp. 1–36.

³⁷ *Ibid.*, p. 28.

³⁸ *Ibid.*

quite distinct from any other commonwealths in which they, as individuals, might be located. Furthermore, his understanding of political authority remains, in important senses, non-territorial. Much of his reasoning concerns the relationship between functional authorities of popes and princes, and while he clearly differentiates temporal from spiritual powers, he admits circumstances in which the Pope, in upholding his spiritual mission, can legitimately exercise temporal authority.

Delivered as lectures in 1539, Vitoria's two most famous 'Relectios', *De Indis* and *De Jure Belli*, are meditations on the justice or injustice of Spain's violent conquest of the Americas, as 'when we hear subsequently of bloody massacres and of innocent individuals pillaged of their possessions and dominions, there are grounds for doubting the justice of what has been done'.³⁹ Because Vitoria judged the Indians to have constituted genuine political communities, with true dominion, he understood Spanish actions as interventionary: they were transgressions of a line of differentiation between units of authority, transgressions intended to transform. Yet, as already noted, this line of differentiation did not mark the boundary between exclusive, territorially-demarcated authorities: the authorities in question were licensed and circumscribed by their function or social role, by a disjuncture between notions of ownership and jurisdiction, and by ideas about the universal authority of natural law and *ius gentium*. This is reflected in three assumptions that frame Vitoria's reasoning on the justice or injustice of Spanish actions.

First, permeating the Relectios is a fundamental distinction between spiritual and temporal authorities, and a complex set of arguments about the *loci* of such authorities and the appropriate boundaries between them. Much of *De Indis* concerns the sources, nature, and scope of these authorities, and Vitoria carves out his distinctive position on legitimate intervention by defining and delimiting them in ways that grant the Indians a particular, if qualified, sphere of autonomy. While the Pope and the Holy Roman Emperor were important *loci* of spiritual and temporal authority, neither was the sole *locus* in either sphere. The scope of the Pope's spiritual authority was broad, but there were, in Vitoria's mind, domains of such authority that God did not vest in the Papacy. Furthermore, the Pope's authority extended only to the community of believers; non-believers fell outside his spiritual jurisdiction.⁴⁰ The Emperor, for his part, sat at the top of a feudal hierarchy of temporal powers, but was not the lord of all lesser kings and princes. He was not, for example, lord of all of the world (*dominus mundi*), and even within the European core, there were crowns, like those of England and France that refused his authority.⁴¹ In addition to setting out the relative scope of these authorities, Vitoria also engaged the long-standing issue of how they were related: in particular, whether and when the Pope might have temporal authority over princes, kings, and emperors. He confronted this issue most directly in an earlier Relectio 'On the Power of the Church' (*De Potestate Ecclesiae Prior*). Only the Church, Vitoria argued, could judge what was needed to protect spiritual matters, and the Pope could assume whatever temporal

³⁹ Francisco de Vitoria, 'On the American Indians (*De Indis*)', in Anthony Pagden and Jeremy Lawrance (eds), *Vitoria: Political Writings* (Cambridge: Cambridge University Press, 1991), p. 238.

⁴⁰ 'Christ, after all, undoubtedly had spiritual power over the whole world, over unbelievers as much as the faithful, and could enact laws which were universally binding, as He did in the case of baptism and articles of Faith; yet the pope does not have that power over unbelievers, nor can he excommunicate them, or prevent them from marrying within the degrees of consanguinity prohibited by divine law.' *Ibid.*, p. 261.

⁴¹ *Ibid.*, p. 253.

power was needed to ensure such protection. Indeed, ‘the pope has the widest power: that is, whenever and to whatever degree it may be necessary for spiritual matters, he has not only all the powers which secular princes have, but also the power to make new princes, to unmake others, to divide empires, and many other such things’.⁴²

Second, Vitoria drew a distinction between different kinds of political communities, commanding different kinds of authority. There were ‘perfect’ and ‘imperfect’ communities, he argued: ‘A “perfect” thing is one in which nothing is lacking, just as an “imperfect” thing is one in which something is lacking ... A perfect community or commonwealth is therefore one which is complete in itself; that is, one which is not part of another commonwealth, but has its own laws, its own independent policy, and its own magistrates.’⁴³ At first glance, one might think that Vitoria’s ‘perfect communities’ are what we term sovereign states, but this is contradicted by other elements of his thought. While he identifies the Kingdom of Castile and the Republic of Venice as perfect communities – as commonwealths, in the full meaning of the term – he also believed that all Christians could form such a community: a ‘commonwealth of the faithful’.⁴⁴ And as we have seen, the Pope, as the ‘monarch’ of this commonwealth, could use the ‘material power of the sword’ against secular rulers to protect spiritual matters. A further complication lies in Vitoria’s discussion of the rights of lesser authorities to wage war. Although such authorities fell within perfect communities, and were thus subject to the higher laws of these communities, the principle of self-help still prevailed: ‘if a duke attacks another duke, and if the king fails, through negligence or timidity, to avenge the damage done, then the injured party, city or duke, may not only defend itself, but may also carry the war into the attacker’s territory and teach its enemies a lesson, even killing the wrongdoers’.⁴⁵

Third, Vitoria worked with a distinctive conception of ‘dominion’ (*dominium*) that affected how he understood the prevailing configuration of political authority. He referred to two forms of dominion: *dominium iurisdictionis* (jurisdiction), and *dominium rerum* (ownership). Modern understandings of sovereignty assume that these are coterminous; that the state has exclusive jurisdiction within its territorial boundaries, and that it holds its territory as an exclusive property right. For Vitoria, however, no such relationship existed. As we shall see, Vitoria began *De Indis* by considering whether the Indians had been true owners of their lands, *dominium rerum*. After concluding that they had, he then considered if the Spanish had any ‘just titles’ to suppress the Indians and appropriate their lands. Here much of his discussion focused on issues of jurisdiction, *dominium iurisdictionis*. He asked, for example, whether despite the Indians having ownership of their lands ‘they might still have superior overlords, just as lesser princes are beneath a suzerain and some kings are beneath the emperor’.⁴⁶ His response, as we shall see, was to deny that the Emperor and the Pope any jurisdiction over the Indians. He was concerned as well, though,

⁴² Francisco de Vitoria, ‘On the Power of the Church (*De Potestate Ecclesiae Prior*)’, in Anthony Pagden and Jeremy Lawrance (eds), *Vitoria: Political Writings* (Cambridge: Cambridge University Press, 1991), pp. 92–3.

⁴³ Francisco de Vitoria, ‘On the Law of War (*De Iure Belli*)’, in Anthony Pagden and Jeremy Lawrance (eds), *Vitoria: Political Writings* (Cambridge: Cambridge University Press, 1991), p. 301.

⁴⁴ Francisco de Vitoria, ‘On Civil Power (*De Potestate Civili*)’, in Anthony Pagden and Jeremy Lawrance (eds), *Vitoria: Political Writings* (Cambridge: Cambridge University, Press, 1991), pp. 30–1.

⁴⁵ Vitoria, ‘On the Law of War (*De Iure Belli*)’, p. 302.

⁴⁶ Vitoria, ‘On the American Indians (*De Indis*)’, p. 252.

with the nature and scope of the Indians' own jurisdiction: did they have the right to control all activities within their lands? Famously, his answer was that they did not: the Indians jurisdiction was delimited. Dominion, in sum, was not a singular phenomenon for Vitoria; it took several forms, and these were neither coextensive nor did they covary.

These three politico-spatial assumptions framed Vitoria's reasoning about the legitimacy of the Spanish intervention in the Indies. But as noted above, how thinkers reason about intervention is also affected by their normative commitments, and it is the interplay between these commitments and how they understand the prevailing configuration of political authority that shapes their conclusions. Vitoria's normative criteria were naturalist, in the sense that assumed the ultimate moral authority of natural law. Following Aquinas, Vitoria understood natural law as those moral principles – conceptions of right and wrong – that we know by natural inclination: '[n]atural law is not so called because it exists within us by nature: children have neither natural law nor the disposition for it within them. It is so called because we judge what is right by natural inclination, not because of some naturally implanted quality (*qualitas*).'⁴⁷ In his writings on the Spanish conquest, Vitoria invoked a particular expression of this law, *ius gentium* (the 'law of nations'). Unlike positive international law, which is said to derive from the consent of states, Vitoria held that *ius gentium* 'either is or derives from natural law', arguing that the 'law of nations' is the product of natural reason.⁴⁸ *Ius gentium* is notable for its absence in Vitoria's discussions of the Indians' *dominium rerum* and the limits of Emperor's and Pope's jurisdictions, but comes to the fore when he seeks to establish the just bases for the Spaniard suppression of the Indians and appropriation of their lands. Indeed, read in one way, it is the authority of *ius gentium* that circumscribes the Indian's sphere of rightful jurisdiction.

Working within these politico-spatial and normative assumptions, Vitoria arrived at the following position on the Spanish intervention. As anticipated above, he argued that the Indians had owned their lands; that they had true *dominium rerum*. As Bain observes, one of Vitoria's innovations was to see the Indians and the Spanish as fellow humans, both in possession of the image of God. The Indians 'are not in point of fact madmen', Vitoria wrote, 'but have judgment like other men'.⁴⁹ This meant that they were not only capable of self-ownership, but also the ownership of things. Only rational creatures could have dominium, as 'only rational creatures have mastery over their own actions'.⁵⁰ Furthermore, the right to own things was a right to use them, and using something depends on a rational capacity for choice. What, though, if the Indians had forfeited their natural rights to dominion because they were unbelievers or guilty of mortal sins? Vitoria rejects both of these arguments: 'the barbarians are not impeded from being true masters, publicly or privately, either by mortal sin in general or by the particular sin of unbelief'.⁵¹ In sum, 'before the arrival of the Spaniards these barbarians possessed true dominion, both in public and private affairs'.⁵² This alone undercut any claim that the Spanish

⁴⁷ Vitoria, 'On Law', in Anthony Pagden and Jeremy Lawrance (eds), *Vitoria: Political Writings* (Cambridge: Cambridge University Press, 1991), p. 169.

⁴⁸ Vitoria, 'On the American Indians (*De Indis*)', p. 278.

⁴⁹ *Ibid.*, p. 250.

⁵⁰ *Ibid.*, p. 248.

⁵¹ *Ibid.*, p. 246.

⁵² *Ibid.*, p. 251.

had a right to the Indies by virtue of ‘first discovery’, as these were not unoccupied lands: the Indians were established owners.⁵³

The question then was what kind of jurisdiction the Indians had within their lands, *dominium iurisdictionis*. Was their jurisdiction subordinate, for example, to that of higher lords? Vitoria rejected the claim that the Holy Roman Emperor had authority over the Indians, arguing that the idea that the Emperor was ‘lord of world’ had no basis in divine, natural, or human law. He also rejected the notion that the Indians were subject to the Pope’s temporal authority: ‘the pope cannot have any dominion except by natural, divine, or human law. It is certain that he does not have it by natural or human law. As for divine law, no authority is forthcoming: hence it is vain and willful to assert it.’⁵⁴ But what if the Pope had spiritual authority over the Indians, and he had such temporal powers as were necessary to fulfill his spiritual mission? We have already seen, though, that Vitoria denied that the Pope had spiritual authority over non-believers, such as the Indians. And if he lacked spiritual authority over them, he also lacked any derivative temporal authority: ‘if the pope has no temporal power except in relation to spiritual matters, and if . . . he has no spiritual power over the barbarians, it follows that he can have no temporal power over them either’.⁵⁵ The upshot of all of this is that Vitoria understood the Indians to be a perfect community, one not subject to higher civil laws or magistrates.

If the Indians had true *dominium rerum*, and if neither the Emperor nor the Pope had any jurisdiction over them, what did Vitoria think were the legitimate grounds for the Spanish intervention? The answer lies in the disjuncture between the Indians’ *dominium rerum* and *dominium iurisdictionis*. While the Indians had true ownership of their lands, they did not have absolute jurisdiction within these. This is not to deny their status as a perfect community, with ‘its own laws, its own independent policy, and its own magistrates’.⁵⁶ Rather, it is to highlight the limited scope of their jurisdiction; the fact that they had authority over some things but not others. It is here that *ius gentium*, and the broader precepts of divine law, enter the picture. *Ius gentium* – that law that ‘natural reason has established among all nations’⁵⁷ – gave the Spaniards three rights that the Indians had no authority to violate: they had the right to travel to, and live within, the Americas providing they did no harm; the right to engage in trade with the Indians; and the right to preach the Gospel. Only if these rights were violated – if the Indians overstepped their *dominium iurisdictionis* – were the Spanish entitled lawfully to wage war against them, to ‘treat them no longer as innocent enemies, but as treacherous foes, against whom all rights of war can be exercised, including plunder, enslavement, deposition of their former masters, and the institution of new ones’.⁵⁸ Two things are worth noting here. Vitoria is often criticised for using *ius gentium* to establish too permissive conditions for Spanish intervention, and for subjecting the Indians to principles that no European ruler would tolerate. If nothing else, though, Vitoria was consistent in his application of

⁵³ *Ibid.*, p. 265.

⁵⁴ *Ibid.*, p. 260.

⁵⁵ *Ibid.*, pp. 262–3.

⁵⁶ Francisco de Vitoria, ‘On the Law of War (*De Iure Belli*)’, in Anthony Pagden and Jeremy Lawrance (eds), *Vitoria: Political Writings* (Cambridge: Cambridge University Press, 1991), p. 301.

⁵⁷ Vitoria, ‘On the American Indians (*De Indis*)’, p. 278.

⁵⁸ *Ibid.*, p. 283.

ius gentium: ‘it would not be lawful’, he wrote, ‘for the French to prohibit Spaniards from travelling or even living in France, or vice versa, so long as it caused no sort of harm to themselves: therefore it is not lawful for the barbarians either.’⁵⁹ Second, the Spaniards’ right to preach the Gospel did not extend to forced conversions. Even if Christianity was preached with care, by those living manifestly Christian lives, the Indians could not, and should not, be forced to believe: ‘the barbarians cannot be moved by war to believe, but only to pretend that they believe and accept the Christian faith; and this is monstrous and sacrilegious’.⁶⁰

In addition to these just causes of intervention, Vitoria is known for his claim that the Spanish could rightly use force to defend ‘the innocent from an unjust death’.⁶¹ They could legitimately wage war on the Indians ‘either on account of the personal tyranny of the barbarians’ masters towards their subjects, or because of their tyrannical and oppressive laws against the innocent, such as human sacrifice practiced on innocent men or the killing of condemned criminals for cannibalism’.⁶² Vitoria’s moral reference point here was not *ius gentium*, it was divine law: ‘The proof’, he argued, ‘is that God gave commandment to each man concerning his neighbor (Ecclus 17:14). The barbarians are our neighbours, and therefore anyone, especially princes, may defend them from such tyranny and oppression.’⁶³ The net effect, though, was the same: while the Indians had *dominium rerum* over their lands, their *dominium iurisdictionis* was not absolute, their rightful powers were circumscribed, in this case, by God’s law. Parallels are sometimes drawn between Vitoria’s position on the rights of princes to protect the innocent and contemporary notions of the Responsibility to Protect. And Vitoria’s insistence that the Indians and Spaniards were part of a single human community, and his view that princes had a moral obligation to protect their neighbours from unjust deaths, certainly resonate. Yet Vitoria’s appeal to divine law differs significantly from the present day appeal to fundamental human rights that undergirds the Responsibility to Protect. Modern notions of the individual that inform principles of human rights are absent from Vitoria’s writings, and the doctrine of the Responsibility to Protect appeals, first and foremost, to human rights acknowledged and codified in positive international law. Even if naturalist assumptions lurk behind contemporary principles of human rights, Vitoria’s invocation of the command of God sits uncomfortably with the heavily secularised discourse used to justify today’s humanitarian interventions.⁶⁴

Conclusion

The primary purpose of this Special Issue is to historicise international intervention, and to move beyond the overwhelming tendency to see it as nothing more than a contemporary policy dilemma, vexed and challenging as it is. It is hardly the first attempt to place intervention in a broader historical context, however. Any number

⁵⁹ *Ibid.*, p. 278.

⁶⁰ *Ibid.*, p. 272.

⁶¹ *Ibid.*, p. 288.

⁶² *Ibid.*

⁶³ *Ibid.*

⁶⁴ On this secularised discourse, see Michael Barnett, *Empire of Humanity: A History of Humanitarianism* (Ithaca: Cornell University Press, 2011); and Brendan Simms and D.J.B. Trim (eds), *Humanitarian Intervention: A History* (Cambridge: Cambridge University Press, 2011).

of scholars have traced the practice back to the early nineteenth century, others as far back as the sixteenth. Histories of humanitarian intervention are now commonplace.⁶⁵ Yet, as we have seen, much of this scholarship is handicapped by anachronism. The concept of intervention itself has been underscrutinised. Many take it for granted, offering little in the way of definition, and virtually all confine the concept within a sovereignty frame. The intervening actors are assumed to be sovereign states, the targets are assumed to be sovereign states, and intervention is understood as a violation of sovereign authority. But if intervention has a history, it is not a history limited to sovereign orders. Indeed, our present sovereign order is surprisingly young. Interventions occurred in the nineteenth century, but they occurred in a bifurcated order that conjoined sovereignty in the core and empire in the periphery. And they occurred at least as far back as the sixteenth century, but there the order was heteronomous. Applying a sovereignty-bound concept of intervention to such practices, however, distorts what intervention was in these contexts, what it meant to the actors concerned, and what implications it had for the prevailing order. Equally importantly, it distracts attention from what these historical practices had in common, what made all of them instances of ‘intervention’.

This article has advanced an alternative conception of intervention, one not framed by sovereignty, one equally applicable to sovereign and non-sovereign orders. International orders, I suggested, are systemic configurations of political authority. In some orders such authority has been distributed on the basis of sovereignty, in others on the bases of empire, suzerainty, or heteronomy, and in still others on some combination of these organising principles. In each of these orders, units of political authority have been differentiated from one another in a distinctive way, and these lines of differentiation have been institutionalised and established as normative. Interventions are transgressions of these lines of differentiation; purposive, transformative transgressions of the margins separating legitimate jurisdictional units. Because they transgress established lines of differentiation, interventions are inherently controversial and demand justification. The nature of intervention varies from one kind of order to another, however; as do the forms of reasoning used to understand and rationalise them. Interventions that violate the exclusive territorial jurisdiction of a state hitherto regarded as a sovereign equal are not the same as interventions that violate the non-exclusive dominion of an Indian polity with differential rights of ownership and jurisdiction. These distinctive kinds of intervention have required distinctive kinds of justifications, as the above reading of Vitoria demonstrates.

This argument has implications for two propositions central to this Special Issue. First, while wishing to historicise intervention, the editors have emphasised the broad historical context of ‘global modernity’, arguing that the interacting imperatives of industrialisation, rational statebuilding, and ideologies of progress have conditioned interventionary ideas and practices in distinctive ways. Nothing in this article challenges this general proposition. What it does, however, is contend that interventionary practices have varied within the long period from early to late modernity (and this applies as well to interventions before the advent of modernity). Intervention, to borrow the editors’ language, is a ‘will to order’ that characterises all

⁶⁵ See, for example, Gary J. Bass, *Freedom’s Battle: The Origin of Humanitarian Intervention* (New York: Vintage Books, 2008); Rodogno, *Against Massacre: Humanitarian Interventions in the Ottoman Empire, 1815–1914*; and Simms and Trim (eds), *Humanitarian Intervention*.

systemic configurations of political authority. Second, the editors argue that interventionary impulses arise as a response to tensions that emerge from the interaction between transnational social forces and bounded political entities. Again, nothing here contests this general proposition, providing these forces and entities are understood broadly. In particular, 'bounded political entities' should not be read as 'sovereign states', or anything even akin to them. The nature of 'boundedness' is a huge variable in the history of intervention, profoundly affecting the nature of interventionary practices and forms of reasoning. Grasping the prevailing regime of boundedness, the lines of differentiation segmenting units of political authority, is a necessary first step in attempt to understand intervention as a varied historical practice.