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Recognition: organized hypocrisy once again

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In this comment, I will focus on only one of the many issues raised by the contributions and commentaries in this collection: the relationship between recognition, external sovereignty, or international legal sovereignty and the two other attributes of ideal typical sovereign states: Westphalian/Vattelien sovereignty and domestic sovereignty. Westphalian/Vattelien sovereignty refers to state autonomy: the domestic authority structures of the state are not subject to decisions taken by external actors. Domestic sovereignty refers to the ability of the state's political structures to effectively regulate activities within and across its borders.

The ideal typical sovereign state possesses all three attributes of sovereignty. The political structures within the state exercise effective control (domestic sovereignty). These political structures are domestically determined and are not subject to external authority (Westphalian/Vattelien sovereignty). And the state is internationally recognized (international legal sovereignty).

If the political entities in, and practices of, the contemporary world matched this ideal-typical characterization of sovereign statehood, then there would be no puzzles associated with recognition. There would be no tension between the declaratory and constitutive theories found in international law. All authority structures that effectively and independently governed a defined territory and population, and could therefore freely enter into and honor international obligations, would be recognized.

Consistent with international political sociology, statehood, and recognition would be unproblematic. All entities that were recognized would be

conventional sovereigns. The ontological building block of the contemporary international system, sovereign states, would be taken for granted.

Understanding the actual practice of recognition is a puzzle because many of the political entities in the international environment, recognized, unrecognized, and partially recognized do not conform with the ideal-typical conception of sovereign statehood. The three different attributes of the ideal typical sovereign state do not necessarily go together. Every possible combination of international legal sovereignty (recognition), Westphalian/Vattelien sovereignty (autonomy), and domestic sovereignty (effective governance) is on display in the contemporary world.

These departures from the ideal-typical world are not a product of something akin to a sin or a crime in which principles and authority are acknowledged but the flesh is weak. Rather they reflect three inescapable attributes of any international system:

- *Complexity*: Political decision makers trying to maximize their utility across a variety of material interests and ideational norms with imperfect information will not follow some consistent single set of principles or rules.
- *Multiple and sometimes conflicting principles and norms*: In the international system many different principles and norms, some of which are contradictory, have been legitimated. Non-interference and the responsibility to protect is only the most recent example of a long history of tension between norms related to the domestic behavior of political regimes (democracy, minority rights, human rights) and the norm of respecting state autonomy.
- *Instrumental structures of authority and legitimacy*: In the international system principles of authority are instrumental rather than constitutive, calculating rather than taken for granted. The cognitive maps of political leaders are not constituted by international principles and norms. Rather, political leaders make instrumental calculations about which of several different, possibly conflicting, principles and norms will best serve their interests. Prevailing principles and norms matter because they are focal points, because they generally serve the interests of political leaders, and because the transactions costs of moving to some alternative regime could be very high, even prohibitive, but they are not taken for granted.

There are four different ways in which the actual practice of recognition has departed from the ideal-typical conception of sovereign statehood, departures that bring into question the external validity of both international legal theories of recognition and international political sociology.

Recognition without governance

There are many states that are universally recognized that do not have effective domestic sovereignty or governance. At the extreme, there are failed states whose recognized governments exercise control over very little, if any, of the state's territory. There are many other states that have areas of limited statehood in which the government does not control some of its territory or some functional activities (Risse 2011). Estimates of the number of failed states in the contemporary international system range from single digits to the thirties (Fund for Peace 2012). Failed states and states with areas of limited statehood comprise what Robert Cooper has called the pre-modern world (Cooper 2003).

The existence of so many poorly governed states is primarily, although not exclusively, a product of decolonization. The Europeans departed leaving little physical or human infrastructure. Governance sputtered and frequently collapsed into civil war. Democratic institutions evaporated. Rent seeking became pervasive. Revenues from oil and hard minerals went to bank accounts in Switzerland rather than the public treasury.

Despite weak governance, there was no hesitation in recognizing former colonies (Fabry 2010, 4). By the end of the 1950s, most of the colonizing states were no longer interested in direct rule (the net returns were negative), but they still had interests, material, and ideational, in their former holdings. They needed a domestic interlocutor with whom they could conclude agreements. In the complex environment following decolonization extending international legal sovereignty while ignoring the conditions stipulated by the declaratory theory of recognition was, in terms interests, their best option. The fact that sovereign statehood was the only universally recognized way to organize political life did matter, as international political sociology would suggest, but not because sovereignty was taken for granted but rather because finding some alternative would have been too expensive. This pattern of recognizing poorly governed states was repeated, and for similar reasons, after the break-ups of the Soviet Union and Yugoslavia, which also left some enfeebled states in their wake.

Recognition without autonomy

The member states of the European Union (EU) all enjoy international recognition but they do not have autonomy. They have used their international legal sovereignty to compromise their Westphalian/Vattelien sovereignty. By voluntarily accepting supranational authority structures, most notably the European Court of Justice, and qualified majority voting, the member states have constrained their own ability to independently enter into

agreements with other states. The 27 member states of the Union exist in what Robert Cooper has termed the post-modern world.

Despite the fact that the member states of the Union cannot independently enter into agreements in many issues areas, their international legal sovereignty has never been questioned. All of the member states of the Union are universally recognized and all sit as independent members of international organizations, even international organizations, such as the WTO, where they cannot act independently.

There has been no challenge to the international legal sovereignty of the members of the EU because it has not been in the interests of any party to make such a challenge. The member states want to maintain their full international legal sovereignty because it provides them with material and perhaps ideational and psychic benefits. The United States has no interest in diminishing the position of its most important allies. Poorer states have every interest in conducting routinized transactions with Union members.

The EU has transformed Europe, a continent that came close to committing suicide in the first half of the 20th century. It is a unique organizational structure. It is not an international organization. It is not a federation. Consistent with the orientation of international political sociology there is no common noun to describe the EU. It is not presented as an alternative to sovereign statehood. Yet the EU is something different from sovereign statehood. Complexity, competing norms, and instrumental calculation have meant continued recognition for the members of the EU despite their loss of Westphalian/Vattelien sovereignty.

Governance without recognition

There are several political entities that have declared their independence and have effective domestic sovereignty and, in some cases, autonomy but are not recognized, or at least not recognized by all of the other states in the international system. Examples include: Somaliland which is not recognized by any other state; North Cyprus which is recognized only by Turkey; Abkhazia which is recognized by six UN member states; South Ossetia which is recognized by five UN members; Taiwan which is recognized by about 20 UN members as the government of China; and Kosovo which is recognized by about half of the member states of the UN.

The choices about recognition in these cases have been governed by political expediency. Somaliland is a small and not very important place and there is tremendous resistance to recognizing breakaway regions in Africa for fear that the boundaries drawn at the end of the colonial era could unravel. Russia, which wants to weaken Georgia, has recognized Abkhazia and South Ossetia and has brought a few allies along

(Venezuela and Nicaragua). Most states, however, have refused recognition because they oppose Russian ambitions or fear setting a precedent for the forcible break-up of an existing state. Taiwan is particularly complicated because the government in Taipei has not declared itself an independent state governing an island off the coast of China but rather claims recognition as the government of all of China.

Autonomy compromised by recognition

Finally, there is a fourth category of states in which recognition has been purchased at the expense of autonomy: as a condition of recognition target states have been compelled to alter their domestic authority structures. The major powers conditioned their recognition of all of the successor states of the Ottoman Empire beginning with Greece in 1832 and ending with Turkey in 1923 on the acceptance by these states of minority rights. At the end of the First World War, recognition and membership in the League of Nations for more than 25 newly created states was conditioned on their implementation of minority rights protections. Only Hungary, which wanted to protect Hungarian minorities in other countries and Czechoslovakia, which was committed to liberal values, embraced minority rights. Europe, led by Germany, imposed the same kind of conditions for recognition on the successor states of Yugoslavia during the 1990s.

The target states would have preferred to preserve their Westphalian/Vattelien sovereignty and to secure international legal sovereignty. This option was not available to them. The major powers insisted on minority rights because they feared that ethnic conflict would be de-stabilizing, especially in the Balkans. Their anxieties proved to be correct in 1914 and again in the 1990s. Competing principles (non-intervention vs. minority rights), and instrumental calculation (trying to stabilize ethnic relations without paying the costs of occupation) not legal theory, determined the behavior of states. There is hierarchy even among mutually recognized states (for a more extensive discussion of hierarchy see Lake 2009). What Fabry has identified as the core principle of international society from Grotius to the present, the mutual recognition of the independence of states (Fabry 2010, 3), has frequently been violated by conditioning recognition on the acceptance of protections for minority rights.

In sum, neither international legal theories nor international political sociology provide an accurate empirical description of the actual practices of states with regard to recognition. Poorly governed and states without autonomy are recognized; states that are autonomous and effectively governed have not been recognized; and recognition has sometimes been conditioned on compromising autonomy. As Chwaszcza points out in her

comment there are many different 'facts and considerations' that have been used to justify or withhold recognition. And as Fabry notes in his comment acts of recognition involve 'discretionary judgment which includes, legal, moral, political, economic, security, and other considerations'. Complexity, multiple and conflicting norms, and instrumental legitimacy and authority have led to organized hypocrisy: logics of appropriateness and logics of consequences are decoupled. Principles and norms are long-lasting but frequently violated (Krasner 1999).

Principles are consequential but they are not dispositive. Recognition makes contracting easier. It provides some status and prestige to political leaders. It facilitates access to foreign aid. In the contemporary world recognized states have not been conquered (Fazal 2007).

Recognition does not, however, guarantee success as the existence of so many failed states demonstrates. The absence of recognition does not mean that a state will be cut off from the global system. Somaliland has an HIV/AIDS program bolstered by foreign support; the rest of Somalia does not (Schäferhoff 2012). Kosovo, which is recognized by almost all members of the EU and by the United States and Canada, is not much affected by the 102 member states that have denied recognition. Taiwan has a globalized economy and per capita income above \$20,000. It receives significant military assistance from the United States. The Taiwan Relations Act passed in 1979 stipulates that Taiwan would be treated as any other state or nation. The Act created the American Institute in Taiwan, which serves as a *de facto* embassy. The United States wanted to recognize China but continue essentially normal diplomatic relations with Taiwan and devised an *ad hoc* set of institutional arrangements that made this possible.

The norms and principles associated with sovereignty are consequential because they serve as focal points that coordinate the behavior of states. They provide readily understood scripts. They can be used to legitimate or to challenge particular policies. But they are not dispositive. Violations of these norms, including norms associated with recognition, occur frequently. A quarter to a third of the states that are now generally recognized lack effective domestic sovereignty or Westphalian/Vattelien sovereignty. States that are not recognized have not been cut off from the international environment. Principles and rules matter, but only as part of a calculation that incorporates logics of consequences as well as logics of appropriateness.

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