Semi-Sovereignty and Relationships of Hierarchy

Research Question

Why did the concept of 'semi-sovereignty' emerge over the late-eighteenth and nineteenth centuries, and how did it work to structure hierarchical relationships in international society?

This thesis examines the emergence of an international legal concept[1] over the late-eighteenth and nineteenth centuries: semi-sovereignty. I show how semi-sovereignty allows space for types of actor which do not possess the full range of sovereign prerogatives typically associated with states in this period of history. This gives rise to a picture of international society that is, at least partially, both hierarchical and differentiated[2] - in the area that has classically been understood as its sovereign 'core' (i.e., Europe, broadly understood) as well as outside it.[3]

Research Area

An emergent research programme in international relations (IR) examines the presence and effects of various forms of international hierarchy.[4] IR theory has long taken as its starting point sovereign states (units) interacting under conditions of anarchy (structure), with the latter characterised variously as the absence of government or legitimate authority.[5] New research increasingly calls this premise into question. Alongside this - although the two developments have not always been in conversation - there has been a turn towards history in IR scholarship. IR theorists increasingly draw on historical sociology and intellectual history, and renewed attention has been directed to mapping out shifts in the nature of international society over time.[6] This thesis is located within these research programmes. I seek to advance our

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[1] International legal concepts are of great relevance to international politics and society. Hedley Bull, *The Anarchical Society: A Study of Order in World Politics* (3rd edition, New York: Columbia University Press, 2002 [1977]), chapter 6.

[2] Differentiation has recently begun to attract attention as a prism through which to view the structure of international society. See, for example, Jack Donnelly, 'Rethinking political structures: from 'ordering principles' to 'vertical differentiation' - and beyond', *International Theory* 1:1 (2009).

[3] For the thesis that modern international society is bifurcated into broadly anarchical and hierarchical realms, underpinned by different institutions and practices, see Edward Keene, *Beyond the Anarchical Society: Grotius, Colonialism, and Order in World Politics* (Cambridge: Cambridge University Press, 2002), especially chapter 4.

[4] For three rather different examples, see Daniel H. Nexon, *The Struggle for Power in Early Modern Europe: Religious Conflict, Dynastic Empires and International Change* (Princeton, N. J.: Princeton University Press, 2009), David A. Lake, *Hierarchy in International Relations* (Ithaca, N.Y.: Cornell University Press, 2009) and Ahsan I. Butt, 'Anarchy and Hierarchy in International Relations: Examining South America's War-Prone Decade, 1932-41', *International Organization* 67:3 (2013).

[5] Bull, *Anarchical Society*, p. 57; Kenneth N. Waltz, *Theory of International Politics* (New York, London: McGraw-Hill, 1979), pp. 81, 88. Depending on how they are conceptualized, anarchy and hierarchy may be considered antithetical to one another or compatible. Jack Donnelly, 'Sovereign Inequalities and Hierarchy in Anarchy: American Power and International Society', *European Journal of International Relations* 12:2 (2006).

[6] Stephen Hobden and John M. Hobson (eds.), *Historical Sociology of International Relations* (Cambridge: Cambridge University Press, 2002), Christian Reus-Smit, 'Reading History Through

understanding of how forms of legal and political hierarchy have emerged and operated in modern international society.

I argue that insufficient attention has been paid to the existence of different types of state in historical international society[7], and in particular the role of different modes of sovereignty in both constituting these types of state as different, and organizing them in a hierarchical manner. One's attention is ultimately directed to modes of sovereignty because it is in them that understandings of legitimate authority are located. If a state is not fully sovereign, and is understood as such not merely *de facto* but *de jure*, it becomes difficult to see international society as anything but hierarchically ordered.

The Concept of Semi-Sovereignty

One can argue that sovereignty is the basic constitutive principle of international society: it determines what the members of that society are, and how they may interact with respect to one another.[8] Moreover, sovereignty acts as a bridge between international relations, international law, and political theory, in that it is both an object of scholarly inquiry and a lodestar for practice in all three domains. This means that it should be of paramount interest to international society scholars interested in how developments in each of these domains interact and changes in one have ramifications in or implications for the others.

The meaning of sovereignty, and the international institutions and practices to which it gives rise, is not a historical constant.[9] Nor is it a free-standing concept: it operates with reference to various cognate principles (which can themselves be cashed out in different ways) such as equality, independence, authority, and legal personhood.

It is against the backdrop of these points that I analyse the emergence of 'semi-sovereignty' as a concept which both derives from sovereignty, and tells us something about that concept from which it is derived. It is a common observation that in nineteenth century international law, sovereignty comes to take on connotations of absolute authority within a given territorial jurisdiction, and absolute independence between and equality among sovereigns in

Constructivist Eyes', *Millennium: Journal of International Studies* 37:2 (2008), pp. 395-6, George Lawson, 'The eternal divide: History and International Relations', *European Journal of International Relations* 18:2 (2012), Barry Buzan and Richard Little, *International Systems in World History: Remaking the Study of International Relations* (Oxford: Oxford University Press, 2000).

[7] David A. Lake, 'The State and International Relations', in Christian Reus-Smit and Duncan Snidal (eds.), *The Oxford Handbook of International Relations* (Oxford: Oxford University Press, 2008), pp. 53-4.

[8] Alan James, *Sovereign Statehood: The Basis of International Society* (London: Allen & Unwin, 1986), p. 7. It is worth noting that James focuses only on state practice in the 20th century, bracketing both earlier practice, and political and legal theory (and hence the relationship between the latter and former). While I agree with James as to the basic constitutive role that sovereignty plays, I take a historical perspective that stresses change rather than continuity over time.

[9] Martti Koskenniemi, *From Apology to Utopia: The Structure of International Legal Argument* (Cambridge: Cambridge University Press, 2005), chapter 2. See also Christian Reus-Smit, *The Moral Purpose of the State: Culture, Social Identity, and Institutional Rationality in International Relations* (Princeton: Princeton University Press, 1999). I take issue with much of Reus-Smit's discussion of the organizing principle of sovereignty in the modern era (chapter 6), but agree with the basic points that sovereignty works to structure international society, and that its meaning is historically variable.

international society.[10] There is something to this point: hence Lawrence's distinction in 1895 between states and 'sovereign or independent states'.[11] It is important to stress though, that even here, there is sometimes a tendency to focus on late nineteenth century (and often early twentieth century[12]). Earlier writers are somewhat less clear cut on the nature of sovereignty: for instance, the sixth edition of Wheaton states that the sovereignty of states may be 'limited and qualified in various degrees'.[13]

Essentially, I see the development as taking the following course. From the late-eighteenth to the mid-nineteenth centuries, international lawyers attempt to deal with what they observe as international hierarchies and actors that clearly do not correspond to ideal-typical sovereign equality and independence. In the course of doing so, they debate the existence of a separate category of states alongside sovereign states: semi-sovereign states.[14] Even as the concept of sovereignty hardens into its classically-understood form in the work of late-century writers, semi-sovereignty continues to exist as a separate category. So even if the century sees a conception of sovereignty as equality, independence and the possession of a full package of rights arising, this emphatically does not mean that this is a comprehensive picture of how international society was understood - and I stress again, this is even so bracketing off issues of extra-European imperialism.[15]

Semi-sovereignty makes sense only with respect to related developments in the way the legal structure of international society is conceptualised. A key move here is the bifurcation of sovereign rights into internal and external packages, which can be allocated in different permutations. For evidence of the change, note that in the sixth edition of Wheaton (1855) there

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[10] For (often critical) perspectives on this point, see Gerry Simpson, *Great Powers and Outlaw States: Unequal Sovereigns in the International Legal Order* (Cambridge: Cambridge University Press, 2004) and David Kennedy, 'International Law and the Nineteenth Century: History of an Illusion', *Quinnipac Law Review* 17:1 (1997).

[11] Thomas Joseph Lawrence, *The Principles of International Law* (2nd edition, London; New York: MacMillan, c.1895), pp. 56-7. Note that Lawerence further distinguishes between sovereign states that are and are not subjects of international law (p. 58). This implies that international legal personhood may not track precisely with sovereignty. One perspective on this point is the use of standards of civilization as a marker of membership in international society. I do not pursue this angle at length in the thesis, but it is important to note. See Gerrit W. Gong, *The Standard of "Civilization" in International Society* (Oxford: Clarendon Press, 1984).

[12] The classic text being Lassa Oppenheim, *International Law: A Treatise* (1st edition, 2 vols, London: Longman, Greens and Co,, 1905-6).

[13] Henry Wheaton, *Elements of International Law* (6th edition, revised by W. B. Lawrence, Boston: Little, Brown, and Company, 1855), p. 45.

[14] Not all agree as to the nature of this category or the appropriateness of the label. For a dissenting view - although not one that fully disputes the substantive claim that these hierarchies exist - see Travers Twiss, *The Law of Nations Considered as Independent Political Communities* (Oxford: Oxford University Press and London: Longman, Green, Longman, and Roberts, 1861), pp. 25-6.

[15] For a discussion of the latter, see Keene, *Beyond the Anarchical Society* and Antony Anghie, 'Finding the Peripheries: Sovereignty and Colonialism in Nineteenth-Century International Law', *Harvard International Law Journal* 40:1 (1999). For the MPhil thesis, I *do* largely bracket this, since I see the legal and political issues surrounding semi-sovereignty as largely separate. However, I do believe that some of the concepts related to the latter - such as protection - come to be important in the high imperial project, although in a different form. See Charles A. Alexandrowicz, *The European-African Confrontation: A Study in Treaty-Making* (Leiden: A. W. Sijthoff, 1973), pp. 62-80. I may consider these issues in a comparative section of the DPhil.

is a whole section (before the standard typology of international actors) discussing the difference between internal and external sovereignty, and the fact that the latter but not the former depends on recognition by other members of international society. This passage does not appear in the first (1836) edition.[16] Generally speaking, semi-sovereign entities lack full external sovereignty rights.[17]

Moreover, semi-sovereign states are constituted by a set of relational forms, which can be understood in ideal-typical terms. It is by virtue of relationships with other international actors that they are semi-sovereign. A typical typology of relationships of semi-sovereign would include protection, suzerainty, neutralization, and (some types of) confederation.[18] These relationships involve different configurations of sovereign rights, and are underpinned by different logics - for instance, neutralization by a logic of great power management; suzerainty by one of deference and tribute from a vassal to a suzerain.

Structure of the Thesis

The thesis is divided into two parts, each corresponding to one dimension of the research question.

The first deals with the emergence of 'semi-sovereignty' as a concept. This section has several components. Provisionally, these will correspond to thesis chapters. I begin by unpacking the concept of semi-sovereignty, and showing how it fits into a conceptual structure by explicating the relationships between it and related concepts, such as sovereignty more generally, independence, equality, personhood, and (international) society.[19] Generally speaking, the function of section is to enable us to make sense of a concept by considering it in context, and presenting it in a manner which would be intelligible to contemporaries, but which pares it down to its essential features and makes connections which are not always rendered explicit in the sources I consult. As an aside, this section also allows for some theoretical refinement at a higher level of abstraction, in terms of how we should consider sovereignty. I

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[16] Wheaton, *Elements of International Law* (6th edition), pp. 30-1. Cf. Wheaton, *Elements of International Law with a Sketch of the History of the Science* (1st edition, 2 vols, London: B. Fellowes, 1836), v. 1, pp. 62-104.

[17] Here there are interesting lines of comparison with, say, colonial protectorates, which tend to lack internal sovereignty.

[18] It goes without saying that legal writers disagree as to the nature of these relationships and whether they truly constitute states as semi-sovereign. Lawrence, for instance, does not include protection in his typology. Lawrence, *Principles of International Law* (2nd edition), p. 68. Oppenheim and Westlake argue that neutralization does not render states semi-sovereign; Lawrence that it does. Lassa Oppenheim, *International Law: A Treatise* (3rd ed., edited by Ronald L. Roxburgh, 2 vols, Clark, New Jersey: The Lawbook Exchange, Ltd., 2005 [1920]), p. 173. John Westlake, *International Law* (2nd ed., 2 vols, Cambridge; Cambridge University Press, 1910), pp. 28-9. Cf. Lawrence, *Principles of International Law* (2nd edition), v. 1, pp. 76-8. Part of the thesis involves tracing these debates.

[19] The relationship of this and the next chapter involves a similar approach to that taken by Koskenniemi: one takes (sets of) arguments and explicates their structure synchronically, but then forms a diachronic picture by comparing such arguments' structures over time. *From Apology to Utopia*, p. 72.

argue that, rather than seeing it as an 'institution'[20], we should understand it as a concept, which is shaped by and informs (institutionalised) practices.[21]

I then trace the development of the concept over time. This is essentially an exercise in intellectual history. We see the notion of 'demi-sovereign' entities in the late eighteenth century, in the work of Martens.[22] I then locate most of the key conceptual shifts in the mid-century, but then show how these set the stage for the hardening of the idea of 'semi-sovereignty' by the late-century.

Having outlined this conceptual change, the task is then to explain it. In general, English School and constructivist scholarship tends to focus on the role of ideas in causing changes in state practice, rather than the development of those ideas themselves.[23] However, ideas do not develop autonomously of practice. Rather, they are influenced by and then go on to influence practice.[24] This section examines the first of these two lines of influence. Here I aim to show how international law attempted to make sense of developments in international relations, and thus why semi-sovereignty emerges and undergoes modification as a category. The historical account is centred around decisive junctures. The first is around Congress of Vienna, which saw the formation of the German Confederation, the creation of the Ionian Islands Protectorate, and the attempt to deal with questions associated with Belgium and Poland.[25] The second is diplomacy surrounding the Belgian revolt of 1830. The third is attempts by European powers to deal with the Ottoman Empire, particularly around the treaties of Paris (1856) and Berlin (1878).

My MPhil thesis is mainly concerned with this first part of the question. The DPhil will expand the account by adding more legal texts (including non-Anglophone writers, many of whom I have so far been unable to consult) and thickening out the causal account, perhaps by adding more primary material on the practice side. This would involve considering printed document collections, and perhaps some archival material, related to foreign policy surrounding the episodes above, and in particular with respect to entities that become classifiable as semi-sovereign (e.g., how do the great powers attempt to deal with Belgium?). Practical concerns will make it difficult to treat multiple powers in the same level of detail, and more attention is likely to be given to Britain. However, it is important that some comparative perspective can be

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[20] On the vagueness of 'institutions' as an analytical category in much IR scholarship, see John Duffield, 'What Are International Institutions?', *International Studies Review* 9:1 (2007), pp. 1-7. While I share his concerns about the applicability of grounded theory to historical inquiry, Wilson's critique of 'stipulative' accounts of institutions which posit their existence basically *a priori* informs my thinking here. Peter Wilson, 'The English School Meets the Chicago School', *International Studies Review* 14:4 (2012).

[21] Emanuel Adler and Vincent Pouliot, 'International practices', *International Theory* 3:1 (2011).

[22] Georg Friedrich de Martens, *Summary of the Law of Nations, Founded on the Treaties and Customs of the Modern Nations of Europe* (Translated by William Cobbett, Philadelphia: Thomas Bradford, 1795), p. 25.

[23] Reus-Smit, 'Reading History Through Constructivist Eyes'. See particularly his claim that 'Constructivists are interested in ideas as historical causes' (p. 408).

[24] Note that this means I am emphatically *not* claiming that ideas are somehow mere rationalizations or epiphenomenal of state interests (whatever those would even be absent ideas) or behaviour.

[25] Not to mention the emergent 'legalized hegemony' of the great powers. See Simpson, *Great Powers and Outlaw States*, chapter 4. The importance of this category of actors for the category of semi-sovereignty is clear from the role they play in guaranteeing neutralization. For a nineteenth-century perspective on the great powers as a *legal* group, see Thomas Joseph Lawrence, 'The Primacy of the Great Powers', in his *Essays on Some Disputed Questions in Modern International Law* (2nd edition, Cambridge: Deighton, Bell and Co., 1885), pp. 208-33.

achieved, since the thesis does not concern the foreign policy of one state, but rather a concept and a set of relationships that organize aspects of international society more broadly.[26]

Substantive consideration of the second aspect of the question is largely given over to the DPhil. In this section I largely depart from intellectual history, focussing more on historical sociology. Here again the there is more than one sub-section. Firstly, I go over each of the relational forms of semi-sovereignty, and show how these relationships operated in practice. The idea here is to explicate the logics of hierarchy which underpin them. Here, cases are selected on the basis of how 'typical' they are of a given form.[27] The legal writers are quite suggestive on this point. For a protectorate, I am likely to look at the Ionian Islands.[28] The vassal states of the Ottoman Empire are illustrative of suzerainty. The German Confederation, and perhaps Switzerland, are cases of confederation. However, I do not simply want to replicate the analysis of legal treatises. It thus seems worth examining cases which legal writers find difficult to categorize. Egypt, before and after the British occupation in 1882, seems fitting here.[29] In this case I expect to find more than one of the overlapping logics of hierarchy in play (as perhaps I may in some cases which appear more straightforward, too).

I may then add a further, comparative chapter, illustrating how relations of semi-sovereignty do not exhaust relations of hierarchy in international society. Here an examination of colonial relations would be central. The aim of this section would be to show what semi-sovereign entities have in common which makes them different from entities more straightforwardly under empire. This would also allow a more nuanced discussion of how certain concepts (such as protection) become modified in different contexts.[30]

Methods and Sources

The thesis is located squarely within the international society tradition of scholarship. This means that I draw on history, political theory (and especially the history of political thought) and international law in making my argument. Broadly speaking, the methodological stance is interpretivist. I attempt to provide an account that would be intelligible to practitioners of international law and diplomacy in the nineteenth century, though of course I abstract from the

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[26] For a work which basically achieves this type of analysis, and does so using printed document collections, see Mikulas Fabry, *Recognizing States: International Society and the Establishment of New States since 1776* (Oxford: Oxford University Press, 2010).

[27] In some ways these can be understood as 'typical' in the sense used in John Gerring, 'Case Selection for Case-Study Analysis: Qualitative and Quantitative Techniques', in Janet M. Box-Steffensmeier, Henry E. Brady, and David Collier (eds.), *The Oxford Handbook of Political Methodology* (Oxford: Oxford University Press, 2008), pp. 648-50, in that they are typical 'of a broader set of cases'. Yet Gerring is operating in the theory-testing tradition. This thesis is a more interpretative account, located within the 'English School' (broadly defined). Case selection proceeds accordingly. My cases are typical in a way roughly similar to those in Keene, *Beyond the Anarchical Society*, chapter 3.

[28] Although see the point about colonial protectorates in the next paragraph.

[29] On difficulties in categorizing Egypt, see for instance Westlake, *International Law* (2nd ed,), v. 1, pp. 26-7.

[30] The discussion in both Anghie, 'Beyond the Peripheries', and, to a lesser extent, Alexandrowicz, *The European-African Confrontation,* lack sustained comparison with the European context. This means that certain points they make (such as Anghie's implication that recognition doctrine arises to manage the high imperial encounter) do not quite map to the timing of those developments in legal doctrine.

complex reality of both professional debate and political practice in doing so. The concepts I use are thus derived from the sources in an inductive manner, and then used to frame an explanatory account.[31]

The first part of the thesis is basically a work of intellectual history - or perhaps more accurately, the history of conceptual change.[32] The second, while connected, draws more on historical sociology and international history more standardly conceived. It involves applying the concepts discussed in the former part of the thesis to understand how interactions between states are structured (in terms of the relational forms discussed above).[33]

The sources I consult are as follows. The discussion of international law focuses mainly on international legal treatises. Starting with Vattel, and in some ways using him as a baseline, I draw on texts produced by what Koskenniemi calls the 'professional mainstream'.[34] Mid-century figures such as Wheaton and Twiss are particularly central to the account.[35] Treaties, available in a number of document collections, supplement this part of the analysis. Works in the history of international law and political theory are used to contextualise and aid in the interpretation of these texts.

For the historical discussion, I rely on a mixture of secondary literature and primary sources (mainly, though not necessarily exclusively, in document collections). It is common practice in works on the historical sociology of IR to draw almost exclusively on secondary literature.[36] Because, however, I focus more than the aforecited works on the role of concepts, rather than transcontextual network structures or economic arguments, *some* analysis of primary texts seems appropriate, although this will not involve the same degree of detailed analysis of archival material related to specific episodes typical of a history (versus international relations) thesis.

Source of Funding

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[31] This sort of methodology is discussed in Edward Keene, 'International Society as an Ideal Type' in Cornelia Navari (ed.), *Theorising International Society: English School Methods* (Basingstoke: Palgrave Macmillan, 2009), pp. 104-24.

[32] For a discussion, see Peter Onuf and Nicholas Onuf, *Federal Union, Modern World: The Law of Nations in an Age of Revolutions, 1776-1814* (Madison: Madison House, 1993), p. 1.

[33] The structure and method of the argument is thus very similar to that of Keene, *Beyond the Anarchical Society*, of which chapter 2 teases out certain themes in the work of Hugo Grotius; chapter 3 then uses these themes as lenses through which to view international history, and presents typical cases of practices which correspond to elements of Grotius's discussion.

[34] Koskenniemi, *From Apology to Utopia*, p. 122.

[35] As well as his *Elements*, Wheaton's *History of the Law of Nations in Europe and America, From the Earliest Times to the Treaty of Washington, 1842* (New York: Gould, Banks & Co., 1845) is an important source. It is worth stressing that Twiss also wrote a number of late-century texts.

[36] See, for instance, the empirical chapters of Nexon, *The Struggle for Power in Early Modern Europe* or Hendrik Spruyt, *The Sovereign State and its Competitors: An Analysis of Systems Change* (Princeton: Princeton University Press, 1994).

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