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Rules and Norms in a Post-Western World¹

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Introduction

Friedrich Kratochwil began to write about the normative foundations of international order at a time when a liberal world order was a stipulated ideal. The question of order was then typically framed in the context of international organization and understood in liberal institutionalist terms, but his concern then was with the 'the management of power' (1978:1), a concern he shared with realists rather more than with liberal institutionalists. This chapter picks up the issue of the management of power, and aims to examine the normative foundations for the world order that will emerge over the coming decades, and to do so in a way that honors Fritz's enduring belief that normative projects are always politically motivated and political developments always normatively inflected, and which equally honors his engagement with 'power politics' in the broadest sense of the term. Before proceeding to this task the underlying empirical assumptions upon which these speculations are based need to be made clear. There are two such assumptions; they can be stated briefly and are given here with only a very sketchy defense.

First, following the argument of William Wohlforth and Stephen Brooks, it is assumed that American military primacy will remain a feature of the architecture of twenty-first century international relations for the foreseeable future, that is at least until mid-century (Wohlforth, 1999; Brooks & Wohlforth, 2008). Primacy appears to be an objective to which the US political establishment is committed, and American military expenditures on hardware and R & D are such as to more or less guarantee the achievement of this objective, *pace* Chinese and Russian attempts to upgrade their forces. Severe economic hardship will affect all parties concerned, and, in any event, as Wohlforth and Brooks and Zbigniew Brzezinski argue, rivalries among the potential challengers to US power will be as salient a feature of the future world order as their putative opposition to the US (Brzezinski, 2004). The existence of nuclear weapons and minimum deterrence force-postures muddies the picture somewhat, which is why the US pursues anti-proliferation policies and may soon commit to the virtual elimination of nuclear weapons, but does not fundamentally change the fact that the US has force-projection capacities that no other state can match. In short, and contrary to the argument of structural realists such as John Mearsheimer or Kenneth Waltz, there will be no re-emergence of traditional balance-of-power politics, because military power has always been central to such a balance (Mearsheimer, 1990; Waltz, 1993).

However, second, beyond the realm of military force it is assumed that something that does look a little more like a traditional balance of power will indeed emerge. China and India may not be able to challenge the US in military terms, but their current levels of economic growth and increasing technological

sophistication – the former more apparent in China, the latter in India – means that they will increasingly exert influence in other aspects of international relations, and these other aspects are, of course, of great, and perhaps increasing, significance. The November 2008 meeting of the G20 in New York to discuss the global economic crisis illustrates the point – clearly the voices of the emerging economies were heard there in a way they had never been heard before – and it is driven home by the role of China (and India) at the Copenhagen Summit on Climate Change in December 2009, which was decisive in the (rather unsatisfactory) end result of that conference. The other two BRIC countries – Brazil and Russia – have fewer guarantees of an influential future, but will still look to exert their influence in world politics when they can, as, of course, will the major West European powers and Japan.

The question that will be discussed here can now be formulated a little more precisely; what kind of normative foundations will exist if the emerging architecture of world politics is going to be characterised by the dispersal of real power amongst a number of actors, some of whom will be non-Western and some of whom will be authoritarian (Gat, 2007; Gat et al, 2009)? To anticipate the argument, the realist claim that this is, effectively, a non-question since norms of international conduct are of little significance and the characteristic patterns of world politics are not culture-specific will be examined; next, the constructivist rebuttal of this position which, especially in the version espoused by Friedrich Kratochwil, stresses the constitutive role of norms, and the importance of a deeper understanding of the political, legal and social context which underpin such norms will be set out; and then, at somewhat greater length, it will be asked whether Kratochwil's successful demolition of the realist position is, in fact, culture-specific. To put the matter more succinctly, even if structural realism's account of the past and present international order is flawed, is it possible that this theory, or something similar, is actually the best guide we have for understanding how international politics will unfold in the 21st century? Ultimately the argument will be that it is not, but the issue is less clear cut than might be expected.

The Anarchy Problematic

For structural realists – perhaps for any realist – the question posed here is of little interest, for two reasons. First, all anarchical systems are subject to the same imperatives. It matters not whether the great powers are Britain, France and Germany or the US, China and India; what matters is that they conduct their relations with one another under conditions of anarchy. To quote someone who was not a structural realist, indeed perhaps was not a realist at all, or at least only occasionally, 'international politics is the realm of recurrence and repetition' with the same patterns reappearing in different eras (Wight, 1966:26). And, second, in any event norms count for very little in international relations. States do what they must, and normative statements are best seen as rhetorical flourishes, not actual constraints on actions and certainly should not be taken seriously by analysts. China and India might, or might not, employ different rhetorics from each other and from the western powers, but this matters very little, and certainly cannot be taken to indicate that the behaviour of these states will be in any meaningful way different from that of their European predecessors as great powers.

The writer who most successfully brings together both of these arguments is Stephen Krasner (Krasner, 1995, 1999, 2001). In his *Sovereignty: Organised Hypocrisy* he begins by challenging the conventional notion that the nature of the European political order changed in a fundamental way during the course of the 'long' sixteenth century; instead he argues that medieval rulers behaved in much the same way as the dynasts of the so-called Westphalia System. In both cases rulers confronted by the imperatives created by a desire to survive and prosper in a self-help system are obliged to behave similarly in response to similar structural pressures – although, possibly, medieval rulers had fewer resources at their disposal than their dynastic counterparts. In essence, states attempt to perform the same functions, even if they do so with different capabilities; this is true of any non-hierarchical system and medieval Europe was such a system.

Krasner appreciates, of course, that in the medieval era people thought differently about politics than they did in early modern times, and that whereas early modern rulers asserted their sovereignty, medieval rulers generally acknowledged that they existed within a chain of obligations that precluded such an assertion – European Christendom was an hierarchy in the sense that Empire and Papacy claimed superiority over other secular rulers, and those rulers rarely directly challenged this claim, at least not until the late fifteenth, early sixteenth centuries. But from Krasner's point of view, this matters little; following James March and Johann Olsen, he distinguishes between the 'logic of expected consequences' and the 'logic of appropriateness' – there are things we do in response to ends-means calculations, and there are things we do because we feel we ought to do them – and argues that in self-help systems, logics of consequence always trump logics of appropriateness (March & Olsen, 1989). Thus, in the Westphalia System the norm of non-intervention is frequently invoked, but even more frequently violated – this, and other '[Principles] have been enduring yet violated'; hence this is a system of 'organised hypocrisy' (Krasner, 1999: 90).

It should now be clear why, from a realist perspective, the question posed in this chapter is actually not worth posing, let alone trying to answer. The real international politics of our new century will be the same as those of the last and of every other era where there is no hierarchical, functionally-differentiated system of 'global' government – the rhetoric employed by the players may be different, but the game is the same.

The Constructivist Response

The realist argument set out above has never gone unchallenged. In fact, many writers who would generally be considered realist have allowed for a much more important role for norms than Krasner would suggest, and present a more historically nuanced account of the emergence of the current international order than a simple (and essentially unexplained) shift from hierarchy to anarchy at some unspecified time in the past. Hans J Morgenthau certainly presents such a nuanced account, and in his discussion of morality and international relations is happy to use the term 'international society' to convey the idea that this has not been simply the realm of power envisaged by Krasner – indeed, Morgenthau used the term international society freely before the work of 'English School' figures such as Wight and Bull with which it is usually associated (Morgenthau, 1948; Bull, 1977; Wight, 1978). But the most sustained and elaborate critique of

structural realism has been launched by constructivist writers. They have effectively critiqued the idea that states can be treated simply as place-holders within a structure – identities and values matter; as J. G. Ruggie argues, it mattered that the USA and not the USSR was the dominant power immediately after the Second World War (Ruggie, 1998). Identities and interests cannot simply be seen as exogenously determined, nor can norms be dismissed simply as establishing standards of appropriate behaviour that can be ignored at will. Norms may shape conduct by making certain kinds of action possible, and others inconceivable.

The constructivist theorist who offers the most ambitious and the most convincing account of this position, and assault on Krasner's, is Friedrich Kratochwil (Kratochwil, 1989a, 1993a, 1995a). Kratochwil demonstrates that Krasner fails to acknowledge the Wittgensteinian distinction between 'regulative' and 'constitutive' rules; those rules which actually constitute international society – such as the norm of non-intervention – make certain kinds of action possible and other kinds conceptually impossible, and this is not a matter that can be verified by empirical observation, nor is it a question of the relative importance of appropriateness as opposed to consequences, but rather a consequence of the logic of the practice in question. Krasner's response, that '[the] international system ...does not have constitutive rules if such rules are conceived of as making some kinds of action possible, and precluding others' confirms that he misses the point that the international system could not be a system in any meaningful sense without the existence of constitutive rules (Krasner, 1999: 229).

Kratochwil wins this argument, but in his 'Sovereignty as "*Dominium*"' chapter he also presents an argument confronting Krasner's elision of the differences between medieval and 'Westphalian' rulers, and this argument, while apparently convincing, does raise some rather disturbing issues for the question which dominates this chapter (Kratochwil, 1995a). Kratochwil traces the re-emergence of Roman notions of property that accompanied the recovery of the Roman republican legacy during the Renaissance. Medieval notions of property always involved obligations to those above and below one – thus in the classic 'feudal' system (never to be found in life in pure form), the local fief-holder would have obligations to those who worked his land and to his superior, the latter in turn would have obligations to the King, the King to the Emperor, and the Emperor to God. What one could and could not do with one's 'property' was limited according to these obligations. The Roman notion of real property [*dominium*] was very different; the Roman property-owner could do more-or-less anything he (always a he in Rome) wished with it, so long as he did not infringe the rights of other property-holders to do whatever they wished with their property. Once such ideas gained currency, princes and kings were able to use them to make claims about their realms which could not have been expressed during a time when the older meaning of property held sway. The detail of this argument may be open to question, as Ben Holland argues in forthcoming *International Studies Quarterly* paper, but the general thrust is clear and difficult to dispute (Holland, forthcoming).

It was, literally, inconceivable that a medieval monarch could claim to be a sovereign in the way that e.g. Louis XIV could in the seventeenth century. The norm of non-intervention flows from this new claim that rulers are able to make

– just as my neighbour may not interfere with the way I dispose of my property, unless I do so in ways in which her property is adversely affected, so one sovereign has no basis for intervening in the internal policies of another sovereign unless those policies constitute, in the language of the UN Charter, a threat to international peace and security. For a sovereign to claim otherwise is to undermine the basis of his or her own sovereignty. At some later date, different notions of property and sovereignty may obtain, as has happened and may now be happening again – but the key point is not just that the norms of the system constrain the way in which sovereigns (and everyone else) think about politics, but that these norms have a very specific history. The Westphalian political order is a product of both European Christendom and Neo-Roman political thought – from the latter comes the notion of sovereignty, which dominates but co-exists uneasily with the residual idea, inherited from the former, that Europe is ‘one great republic’, to use a term employed by both Edward Gibbon and Edmund Burke. It is this very specific history that has shaped the system, and not the operation of logics of intended consequences in a self-help system, as structural realists have argued.

Socialising the Newcomers?

The problem is that while this is the history of the European states who created Westphalia, it is not the history of most of the rest of the world. Indeed, the Europeans did not play the Westphalian game themselves when they were away from home, as Edward Keene has demonstrated (Keene, 2002). Of course, now is not 1648, and after 1945, the Westphalian system became genuinely global, with, in principle, the same rules applied to all – non-intervention being applied to non-western states, and the ‘standards of civilization’ coming home to Europe itself in the form of the international human rights regime – but this process has not been without its difficulties, and, arguably, has worked as well as it has because the most important states in the system still remained European, or had populations of predominantly European origin. Once this ceases to be the case, as it is assumed it soon will, how will the system fare? Will an international *society* continue to be possible? And does Kratochwil’s formulation of regulative versus constitutive rules, and the differences between medieval and Westphalian rulers, resolve the problems encountered in conceptualizing this society and understanding its forms of order?

A positive answer to this question is provided by ‘pluralist’ English School theorists. The pluralist argument, as expressed with great clarity by Terry Nardin and Robert Jackson, is that the normative foundations of international society form the basis of an ethics of co-existence that is of general applicability (Nardin, 1983; Jackson, 2000). Nardin draws a distinction between those practices which presume no common project beyond the desire to co-exist under conditions of peace and justice, and are designed to promote the conditions under which such co-existence can occur, and those practices that are orientated towards common purposes that go beyond co-existence. The former – exemplified by the law of treaties, or the practice of diplomatic immunity – are a necessary condition for the existence of an international society and their validity cannot be denied by those states that wish to be members of such a society. The latter – exemplified by co-operative institutions such as the WTO or NATO – are, by their nature, voluntary add-ons; no state can be obliged to sign-

up for such projects. Jackson presents the argument somewhat differently but to much the same effect.

Interestingly, both Nardin and Jackson – Nardin more explicitly than Jackson – draw on the work of Michael Oakeshott to make their case (Oakeshott, 1975, 1991). In *On Human Conduct*, Oakeshott sets out a distinction between ‘civic associations’ and ‘enterprise associations’, which Nardin rebrands for his purposes as ‘practical’ and ‘purposive’ associations (Oakeshott, 1975). Identifying this influence draws attention immediately to some potential problems. First of all, it has to be noted that Oakeshott’s attempt to limit the realm of the political to the terms of association of citizens (*cives*) has been singularly unsuccessful in domestic politics; all modern states actually engage extensively in enterprises on behalf of their citizens, attempting to providing social security, minimum levels of health care, and to manage the economy, all activities that Oakeshott believed improperly extended the realm of the political. At the international level, although much less successfully, states have engaged in similar enterprises, and it is by no means clear that such activity can any longer be described as simply the product of voluntary co-operation – the costs of abstaining from, e.g. the WTO are sufficiently high that few states wish to be excluded from membership. But, rather more importantly for the purposes of this chapter, it also should be noted that Oakeshott’s work is very explicitly grounded in the history of the modern European state – the distinction between civic and enterprise associations is not to be seen as plucked from the air, but rather as something developed by a tradition of European thought exemplified by Machiavelli, Hobbes and Hegel, the great political philosophers of the modern era. The obvious question is whether this distinction can be made meaningful for those who are not the inheritors of the European tradition.

To put the matter differently, Nardin argues that any state which wants to be considered a state in good standing in international society must adhere to the norms of practical association – but supposing there are ‘states’ that don’t want to be considered as members of international society, but would rather assert their identities in different terms? Why should such polities – not really the right term – feel obliged to accept the terms of practical association in the absence of some form of coercion, even if we assume that practical association is the best way of describing international society? The pluralist argument is that those ‘polities’ that do not want to consider themselves members of a society of states will be unable to sustain this position. The original social formations upon which such polities are built may have held different views, seeing themselves as ‘the Middle Kingdom’ for example, or not having any sense of themselves as a polity at all prior to their membership of the system (true of many states created by decolonisation), but their very existence as part of a functioning international society bears witness to the fact that they have been corralled, one way or another, into this status. But do they understand the implications of this status in the way that the pluralists assume they will? Will Kratochwil’s broad agreement with Nardin’s notion of international society as a “practical association” turn out to be overtaken and superseded by this shift (for other treatments of this question, see also the contributions by Lynch and Wiener in this volume)?

Sovereignty as the Key Norm

It seems quite clear that some such process of socialisation has taken place. For example, while it may indeed be the case that some Chinese leaders still think of themselves as ruling the Middle Kingdom, there is very little evidence that this is any more salient with respect to actual behaviour than is, say the French notion of a *mission civilatrice*, British myths about the beneficial nature of the *Pax Britannica*, or America's vision of itself as a 'city on a hill'. These national stereotypes may have some limited impact on the perceptions of decision-makers, but the unwillingness of the rest of the world to buy into the benign pictures they paint limits their actual influence, and usually prevents national leaders from taking their own claims to a special status too seriously. In similar vein, contemporary Iran is never likely to forget that it is an Islamic Republic, and occasionally makes claims to the effect that this status means that it is not bound by rules designed for less sanctified regimes – but in practice things are rather different and, at least in essentials, Iran behaves like a sovereign state amongst other sovereign states. It is worth noting that at the very height of the Islamic Revolution in 1979/80, when one of the core practices of international society, diplomatic immunity, was violated by the occupation of the American Embassy, a.k.a. the 'nest of spies', the Iranian government maintained the fiction that this occupation was being conducted by revolutionary students and not by the state. Similarly, although Libya abolished its overseas Embassies, replacing them with People's Bureaus, when in 1984 the personnel of the London Bureau fired shots which killed a police officer who was monitoring a demonstration by Libyan dissidents, Colonel Gaddafi was quick to claim diplomatic immunity on their behalf. One could go back to the way in which the USSR's original revolutionary ambitions were tamed to make the same point.

However, it seems equally clear this process of socialisation has involved the internalisation of a particular conception of the norms of international society, and in particular, has focused on that version of the sovereignty norms which were established in the long sixteenth century, and restated and endorsed by the UN Charter of 1945. More recent attempts to redefine the nature of sovereignty, for example by understanding sovereignty as incorporating human rights, or by asserting a generalised 'Responsibility to Protect' (R2P) populations from extreme human rights abuse which lies in the first instance with sovereigns themselves, but then by default with the international community, have little resonance. To illustrate the point here, it is striking that when the notion of 'Asian Values' was briefly popular in the early 1990s, the most vocal advocates of the view that there was a distinctive Asian take on human rights were Mahathir Mohamed and Lee Kuan Yew, leaders of Malaysia and Singapore respectively, and that neither the Indian nor the Chinese governments took more than a desultory interest in the movement (Bell, 2000). Whereas the leaders of Malaysia and Singapore were acknowledging the legitimacy of the contemporary international human rights regime, while attempting to shape it in ways that served their own interests (and possibly responded to their views of their populations), the two Asian giants simply took the high (or perhaps low) road by claiming that their domestic political and social arrangements were protected by their sovereignty and the 'domestic jurisdiction' clause of the UN Charter, Article 2(7) – although, admittedly, in a half-hearted way China did also throw some Confucian arguments into the pot (Bell, 2008). In the case of China this stance is unsurprising since clearly many Chinese practices actually do violate

contemporary human rights norms, but the Indian position is in some ways more interesting because the Indian constitution embraces international human rights standards and is generally respected by the Indian political class. Indeed, as Amartya Sen has argued, there is a long and influential tradition of Indian rationalism and respect for the individual which means that the idea of human rights is in no sense an alien importation. (Sen, 2005, 2009) Still, when it comes to foreign policy, the Indian political class is deeply committed to a very strong, unrestricted notion of sovereignty and it is striking that in spite of its own, generally quite positive, record in the area of human rights, India has opposed every attempt to generate support for international humanitarian interventions to deal with large scale human rights abuses, always on the grounds that they would violate the sovereignty of the state intervened against.

It is, of course, not remotely surprising that China and India should take this position. Both societies have suffered humiliation at the hands of Western powers over the last few centuries. The idea that these same powers should now announce their own moral superiority and consider themselves justified in criticising the internal politics of their former victims is understandably hard to take – but the position taken by these states is not simply to be understood as a reaction to imperialism. If that were to be the case, one might have expected that as the colonial era recedes into the past, attitudes would gradually change and older resentments fade. In fact, this does not seem to be the trajectory that we have witnessed over the last half century. It seems to be the case that the secularist Western doctrines of Marxism (in China) and democratic socialism (in India) are actually less salient to those societies now than they were fifty years ago, and both are developing their own political forms with fewer references to the political movements that brought them into existence – but they remain committed to sovereignty as an ideal and as a practical goal of policy. To put the matter rather differently, some Western norms have stuck and indeed become reinforced, but they are the norms which cluster around the early, undoubtedly Western, notion of state sovereignty, and not the revisions to that notion that have accrued over time. The emerging powers have accepted the institutions of sovereignty and the nation-state but without taking on board the wider context within which these institutions developed in Europe; it was to that context that Martin Wight referred when he described the small but important difference between the morality of the jungle and the 'traditions of Europe' (Wight, 1978:293).

Sovereignty and Realism

Does the apparently firm commitment to an uncompromising notion of sovereignty on the part of the emerging great powers suggest that the structural realists are indeed the best guides to the new architecture of twenty-first century international politics? Perhaps not, since sovereignty still has to be seen as a constitutive norm of the system, *contra* Krasner – but the notion that a somewhat rigid notion of sovereignty is effectively the *only* normative principle of the system certainly has realist roots of a kind. But this is a position which has more in common with that of the blood-and-iron realists of the nineteenth century than with either the 'righteous realists' or even the structural realists of the twentieth. (Rosenthal, 1991). Thus, while the latter could at least comprehend, and indeed in some cases actually support, the notion that sovereignty brings with it responsibilities for the condition of one's own people,

for the former such ideas are meaningless, and institutional developments such as that of the international human rights regime a pointless irrelevance.

If this conception of international politics comes to dominate, a grim picture of the future emerges, but there are some reasons to be a little more positive. The underlying faith that history is on their side that has characterised the thinking of advocates of global civil society and an ever more extensive human rights regime may be misplaced, but the interdependencies that certainly characterise contemporary world politics cannot be disregarded. As suggested above, the emerging Great Powers will wish to preserve their sovereignty and will resist any attempt to redefine what that means in non-traditional terms, but the advantages of being part of an interdependent world economy are considerable, and unlikely to be risked unless core interests are at stake. Whereas in the past it was common for rising powers to feel that they had to define their new status by challenging existing power-holders, building empires and 'co-prosperity spheres' and the like, nowadays, *pace* John Mearsheimer, this is no longer necessary, and indeed may be even more counter productive than previously. Thus, former Russian President, current Prime Minister Putin's overt use of the energy card to buttress his position at home by making nationalist gestures abroad is actually (and quite predictably) causing Europeans to think of ways of reducing their dependence on Russian oil and gas. As numerous writers remarked at the time of the conjuncture of the conflict in Georgia with the Beijing Olympics in 2008, China is looking forward to exercising influence by going with the grain of the new century, while Russia seems unable to break contact with its imperial past. No prizes for guessing which strategy is actually more likely to bring dividends in the medium to long run.

To put these points in the context of IR theory, what may be happening is the return of something a lot like the models of complex interdependence that were popular in the 1970s, but which were swept aside by the triumph of neo-utilitarian theory in the 1980s (Keohane & Nye, 1978). Multiple channels of access, the absence of a hierarchy of issues, generally low salience of military force, the importance of agenda-setting and so on – these look like very promising topics, finding a middle way between the over-optimism of globalization theorists and the pessimism account of a contest between unitary rational egoists offered by modern realists. Perhaps, as G John Ikenberry has argued, liberal internationalism is sufficiently resilient to cope with the shifts in relative power that are taking place, and a post-hegemonic 'Liberalism Internationalism 3.0' may emerge (Ikenberry, 2009), but if so it is likely to be on the basis of economic interdependence and not any wider commitment to liberal values.

In short, this is still a system that relies heavily, almost exclusively, on material interests to tone down conflict and promote co-operation. The normative foundations of this regime look very thin; the absence of a common past and a common political vocabulary of the sort identified by Kratochwil make these foundations look even thinner than those required by the pluralism of Nardin or Jackson. The key question is whether the interdependencies that hold things together will continue to do so if things go seriously wrong with the world economy – the present world recession may provide an answer to this question, especially if, as still seems possible, it deepens into a depression. It is possible that the major economic powers, including China and India, will be able

to deliver a collective response to the crisis, but if interdependencies shrivel and weaken, then, in the absence of a firmer normative basis for cooperative behaviour, it is difficult to see what, if anything, will stand in the way of a return to the worst aspects of the politics of the old order.

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