CHAPTER 1

Sovereignty and Its Discontents

Some analysts have argued that sovereignty is being eroded by one aspect of the contemporary international system, globalization, and others that it is being sustained, even in states whose governments have only the most limited resources, by another aspect of the system, the mutual recognition and shared expectations generated by international society. Some have pointed out that the scope of state authority has increased over time, and others that the ability of the state to exercise effective control is eroding. Some have suggested that new norms, such as universal human rights, represent a fundamental break with the past, while others see these values as merely a manifestation of the preferences of the powerful. Some students of international politics take sovereignty as an analytic assumption, others as a description of the practice of actors, and still others as a generative grammar.1

This muddle in part reflects the fact that the term “sovereignty” has been used in different ways, and in part it reveals the failure to recognize that the norms and rules of any international institutional system, including the sovereign state system, will have limited influence and always be subject to challenge because of logical contradictions (nonintervention versus promoting democracy, for instance), the absence of any institutional arrangement for authoritatively resolving conflicts (the definition of an international system), power asymmetries among principal actors, notably states, and the differing incentives confronting individual rulers. In the international environment actions will not tightly conform with any given set of norms regardless of which set is chosen. The justification for challenging specific norms may change over time but the challenge will be persistent.

The term sovereignty has been used in four different ways—international legal sovereignty, Westphalian sovereignty, domestic sovereignty, and interdependence sovereignty. International legal sovereignty refers to the practices associated with mutual recognition, usually between territorial entities that have formal juridical independence. Westphalian sover-

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eignty refers to political organization based on the exclusion of external actors from authority structures within a given territory. Domestic sovereignty refers to the formal organization of political authority within the state and the ability of public authorities to exercise effective control within the borders of their own polity. Finally, interdependence sovereignty refers to the ability of public authorities to regulate the flow of information, ideas, goods, people, pollutants, or capital across the borders of their state.

International legal sovereignty and Westphalian sovereignty involve issues of authority and legitimacy, but not control. They both have distinct rules or logics of appropriateness. The rule for international legal sovereignty is that recognition is extended to territorial entities that have formal juridical independence. The rule for Westphalian sovereignty is the exclusion of external actors, whether de facto or de jure, from the territory of a state. Domestic sovereignty involves both authority and control, both the specification of legitimate authority within a polity and the extent to which that authority can be effectively exercised. Interdependence sovereignty is exclusively concerned with control and not authority, with the capacity of a state to regulate movements across its borders.2

The various kinds of sovereignty do not necessarily covary. A state can have one but not the other. The exercise of one kind of sovereignty—for instance, international legal sovereignty—can undermine another kind of sovereignty, such as Westphalian sovereignty, if the rulers of a state enter into an agreement that recognizes external authority structures, as has been the case for the members of the European Union. A state such as Taiwan can have Westphalian sovereignty, but not international legal sovereignty. A state can have international legal sovereignty, be recognized by other states, but have only the most limited domestic sovereignty either in the sense of an established structure of authority or the ability of its rulers to exercise control over what is going on within their own territory. In the 1990s some failed states in Africa, such as Somalia, served as unfortunate examples. A state can have international legal, Westphalian, and established domestic authority structures and still have very limited ability to regulate cross-border flows and their consequent domestic impacts, a situation that many contemporary observers conceive of as a result of globalization.

This study focuses primarily on Westphalian sovereignty and, to a lesser extent, on international legal sovereignty. Domestic authority and control and the regulation of transborder movements are examined only insofar

2 See Thomson 1995 for a lucid elaboration of the contrast between authority and control. The distinction between a logic of appropriateness and a logic of consequences is developed by March and Olsen 1998 and March 1994.
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as they impinge on questions associated with recognition and the exclusion of external actors from domestic authority structures.

This study does not attempt to explain the evolution or development of the international system over the millennia. I offer no explanation for the displacement of other institutional forms, such as the Holy Roman Empire, the Chinese tributary system, or the Hanseatic League by an international system in which states are the most prevalent organizational unit. Rather, this study is an effort to understand what sovereign statehood has meant in actual practice with regard to international legal and Westphalian sovereignty.

All political and social environments are characterized by two logics of actions, what James March and Johan Olsen have called logics of expected consequences and logics of appropriateness. Logics of consequences see political action and outcomes, including institutions, as the product of rational calculating behavior designed to maximize a given set of unexplained preferences. Classical game theory and neoclassical economics are well-known examples. Logics of appropriateness understand political action as a product of rules, roles, and identities that stipulate appropriate behavior in given situations. The question is not how can I maximize my self-interest but rather, given who or what I am, how should I act in this particular circumstance. Various sociological approaches offer examples.

These two logics are not mutually incompatible but their importance varies across environments. If a logic of appropriateness is unambiguous and the consequences of alternative courses of action unclear, the behavior of actors (primarily rulers for this study) is likely to be determined by their roles. If actors find themselves in a situation in which they have multiple and contradictory roles and rules, or no rules at all, but the results of different courses of action are obvious, a logic of consequences will prevail. In a well-established domestic polity a logic of appropriateness will weigh heavily, although within the confines imposed by specific roles (president, general, senator, voter) actors will also calculate the course of action that will maximize their interests. Even in very well settled situations, such as Swedish local governments, which Nils Brunsson uses to motivate his study of what he has ingeniously termed the organization of hypocrisy, actors never fully conform with the logic of appropriateness associated with their specific roles; they also engage in purely instrumental behavior generated by a logic of expected consequences.

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3 See Tilly 1990a, Spruyt 1994, and Strang 1991 for general discussions of the evolution of institutional forms in the European and later global international system over the last millennium.


5 March and Olsen 1998.

6 Brunsson 1989
The basic contention of this study is that the international system is an environment in which the logics of consequences dominate the logics of appropriateness. Actors embody multiple roles, such as head of state, diplomatic representative, government leader, party organizer, ethnic representative, revolutionary avatar, or religious prophet, that imply conflicting rules for action. International rules can be contradictory—nonintervention as opposed to the protection of human rights, for example—and there is no authority structure to adjudicate such controversies. In most cases domestic roles will be more compelling than international ones, because domestic rather than international logics of appropriateness are most likely to dominate the self-conceptualization of any political leader. Moreover, the international system is characterized by power asymmetries. Stronger actors can, in some cases, conquer weaker ones, eliminating the existence of a particular state, although not necessarily challenging the general principles associated with Westphalian or international legal sovereignty. Conquest simply changes borders. But rulers might also choose to reconfigure domestic authority structures in other states, accepting their juridical independence but compromising their de facto autonomy, a policy that does violate Westphalian sovereignty. Stronger states can pick and choose among different rules selecting the one that best suits their instrumental objectives, as the European powers did during the era of colonialism when they “resuscitated pre-Westphalian forms of divided sovereignty” such as protectorates and subordinate states. In the international environment roles and rules are not irrelevant. Rulers do have to give reasons for their actions, but their audiences are usually domestic. Norms in the international system will be less constraining than would be the case in other political settings because of conflicting logics of appropriateness, the absence of mechanisms for deciding among competing rules, and power asymmetries among states.

The prevailing approaches to international politics in the United States, neorealism and neoliberalism, properly deploy a logic of consequences, although their ontology, states conceived of as unified rational autonomous actors, is not suitable for understanding some elements of sovereignty, especially the extent to which the domestic autonomy of states has been compromised. Various efforts to employ a logic of appropriateness, reflected most prominently in the English school and more recent constructivist treatments, understate the importance of power and interest and overemphasize the impact of international, as opposed to domestic, roles and rules.

Both international legal sovereignty and Westphalian sovereignty can be defined by clear rules or logics of appropriateness: recognize juridically

independent territorial entities; exclude external authority structures from the territory of the state. Yet both of these logics have been violated, more frequently for Westphalian sovereignty than international legal sovereignty, because logics of consequences can be so compelling in the international environment. Rulers have found that it is in their interest to break the rules. Violations of international legal sovereignty have taken place through mutual agreement, since recognition depends on the voluntary acceptance of other states. Violations of Westphalian sovereignty have occurred through both voluntary agreements and the use of coercion.

The starting point for this study, the ontological givens, are rulers, specific policy makers, usually but not always the executive head of state. Rulers, not states—and not the international system—make choices about policies, rules, and institutions. Whether international legal sovereignty and Westphalian sovereignty are honored depends on the decisions of rulers. There is no hierarchical structure to prevent rulers from violating the logics of appropriateness associated with mutual recognition or the exclusion of external authority. Rulers can recognize another state or not; they can recognize entities that lack juridical independence or territory. They can intervene in the internal affairs of other states or voluntarily compromise the autonomy of their own polity.

Any actor-oriented approach must start with simple assumptions about the underlying preferences of actors. These preferences must be applicable to all actors across space and time. If the preferences, the underlying interests of actors, are problematic, then the preferences become something to be explained rather than something that can do the explaining. The assumption of this study is that rulers want to stay in power and, being in power, they want to promote the security, prosperity, and values of their constituents. The ways in which they accomplish these objectives will vary from one state to another. Some rulers need to cultivate their military; others seek a majority of votes. Some will enhance their position by embracing universal human rights; others succeed by endorsing exclusionary nationalism. Some are highly dependent on external actors for their financial support; others rely almost exclusively on domestic sources.

International legal sovereignty has been almost universally desired by rulers, including rulers who have lacked juridical independence and even a territory. Recognition provides benefits and does not impose costs. Recognition facilitates treaty making, establishes diplomatic immunity, and offers a shield against legal actions taken in other states. International legal sovereignty can indicate to domestic actors that a particular ruler is more likely to remain in power if only because that ruler can more easily secure external resources.
The basic rule of international legal sovereignty, that mutual recognition be extended among formally independent territorial entities, has never been universally honored. The fact that rulers want recognition does not mean that they will always get it. Nonrecognition has been used as an instrument of policy. Rulers with territory and juridical and de facto autonomy, such as the Chinese Communist regime from 1949 to the 1970s, have not been recognized. At the same time rulers have recognized entities lacking in formal juridical autonomy—Byelorussia and the Ukraine were members of the United Nations. Even entities without territory have been recognized. The Iranian mullahs had a better chance of staying in power in 1979 by violating diplomatic immunity (a long-standing rule associated with international legal sovereignty) than by honoring it. These departures from the standard norm have not, however, generated alternative logics of appropriateness.

While almost all states in the international system have enjoyed international recognition (even if other kinds of entities are sometimes recognized as well), many fewer states have enjoyed Westphalian sovereignty. Rulers have frequently departed from the principle that external actors should be excluded from authority structures within the territory of their own or other states. Westphalian sovereignty can be violated through both intervention and invitation. More powerful states have engaged in intervention, coercing public authorities in weaker states to accept externally dictated authority structures. Rulers have also issued invitations, voluntary policies that compromise the autonomy of their own polity, such as signing human rights accords that establish supranational judicial structures, or entering into international loan agreements that give the lender the right not just to be paid back but also to influence domestic policies and institutions. The norm of autonomy, the core of Westphalian sovereignty, has been challenged by alternatives including human rights, minority rights, fiscal responsibility, and the maintenance of international stability. Moreover, in the international system principled claims have sometimes merely been a rationalization for exploiting the opportunities presented by power asymmetries.

The logic of appropriateness of Westphalian sovereignty, the exclusion of external actors from internal authority arrangements, has been widely recognized but also frequently violated. The multiple pressures on rulers have led to a decoupling between the norm of autonomy and actual practice. Talk and action do not coincide. Rulers might consistently pledge their commitment to nonintervention but at the same time attempt to alter the domestic institutional structures of other states, and justify this practice by alternative norms such as human rights or opposition to capitalism. Rulers must speak to and secure the support of different constitu-
encies making inconsistent demands. Nationalist groups agitate for an end to external influence; the International Monetary Fund (IMF) insists on a legitimated role in domestic policy formation. Rulers might talk non-intervention to the former, while accepting the conditionality terms of the latter. For rulers making choices in an anarchic environment in which there are many demands, multiple norms, power asymmetries, and no authoritative decision-making structures, adhering to Westphalian sovereignty might, or might not, maximize their utility.

Outcomes in the international system are determined by rulers whose violation of, or adherence to, international principles or rules is based on calculations of material and ideational interests, not taken-for-granted practices derived from some overarching institutional structures or deeply embedded generative grammars. Organized hypocrisy is the normal state of affairs.

Violations of the basic rule of Westphalian sovereignty have occurred more frequently than violations of the basic rule of international legal sovereignty and have been more explicitly justified by alternative principles. Departures from the logic of appropriateness associated with international legal sovereignty have often been unproblematic because they involve agreements among rulers that are mutually beneficial; everyone is better off and no one needs to be convinced. In contrast, coercive violations of the logic of appropriateness associated with Westphalian sovereignty can leave some actors worse off; justifications in the form of alternative principles or rules have been offered, sometimes to convince targets and sometimes to insure support from domestic constituents in those states engaged in coercion.

**Four Meanings of Sovereignty**

The term sovereignty has been commonly used in at least four different ways: domestic sovereignty, referring to the organization of public authority within a state and to the level of effective control exercised by those holding authority; interdependence sovereignty, referring to the ability of public authorities to control transborder movements; international legal sovereignty, referring to the mutual recognition of states or other entities; and Westphalian sovereignty, referring to the exclusion of external actors from domestic authority configurations. These four meanings of sovereignty are not logically coupled, nor have they covaried in practice.

— Brunsson (1989, 27–31), notes that political organizations are inevitably confronted with multiple constituencies.
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Embedded in these four usages of the term is a fundamental distinction between authority and control. Authority involves a mutually recognized right for an actor to engage in specific kinds of activities. If authority is effective, force or compulsion would never have to be exercised. Authority would be coterminous with control. But control can be achieved simply through the use of brute force with no mutual recognition of authority at all. In practice, the boundary between control and authority can be hazy. A loss of control over a period of time could lead to a loss of authority. The effective exercise of control, or the acceptance of a rule for purely instrumental reasons, could generate new systems of authority. If a practice works, individuals might come to regard it as normatively binding, not just instrumentally efficacious; conversely, if a mutually accepted rule fails to control behavior, its authority might be rejected over time.\(^9\) In many social and political situations both a logic of consequences, in which control is the key issue, and a logic of appropriateness, associated with authority, can both affect the behavior of actors.\(^{10}\)

Westphalian sovereignty and international legal sovereignty exclusively refer to issues of authority: does the state have the right to exclude external actors, and is a state recognized as having the authority to engage in international agreements? Interdependence sovereignty exclusively refers to control: can a state control movements across its own borders? Domestic sovereignty is used in ways that refer to both authority and control: what authority structures are recognized within a state, and how effective is their level of control? A loss of interdependence sovereignty (control over transborder flows) would almost certainly imply a loss of domestic sovereignty in the sense of domestic control but would not necessarily imply that the state had lost domestic authority.\(^{11}\)

\(^9\) Sugden (1989) in his discussion of evolutionary game theory suggests that a rule that is initially accepted for purely consequential reasons can come to be normatively binding, authoritative, over time, because it works and is generally accepted.

\(^{10}\) For further discussions of the distinction between authority and control with reference to sovereignty, see Wendt and Friedheim 1996, 246, 251; Onuf 1991, 430; Wendt 1992, 412–13; Shue, 1997, 348.

\(^{11}\) Similar distinctions are developed by Thomson (1995) who emphasizes the critical difference between control on the one hand, which may be threatened by what is called here a loss of interdependence sovereignty, and authority on the other. Daniel Deudney has also noted the different ways in which the term sovereignty has been used and conflated. Deudney defines sovereignty as the ultimate source of authority in the polity. “This meaning of sovereignty,” he goes on to point out, “is often conflated with the related questions of authority, which refers to the exercise of legitimate power (what is here termed an aspect of domestic sovereignty), autonomy, which refers to the independence of a polity vis-à-vis other polities (which is here referred to as Westphalian sovereignty), and recognized autonomy, which involves the rights, roles, and responsibilities of membership in a society of states.
Domestic Sovereignty

The intellectual history of the term sovereignty is most closely associated with domestic sovereignty. How is public authority organized within the state? How effectively is it exercised? Bodin and Hobbes, the two most important early theorists of sovereignty, were both driven by a desire to provide an intellectual rationale for the legitimacy of some one final source of authority within the state. Both were anxious to weaken support for the religious wars that tore France and Britain apart by demonstrating that revolt against the sovereign could never be legitimate.12 Strayer, in his study of the early state, suggests that “For those who were skeptical about the divine right of monarchs there was the theory that the state was absolutely necessary for human welfare, and that the concentration of power which we call sovereignty was essential for the existence of the state.”13 F. H. Hinsley writes, “at the beginning, at any rate, the idea of sovereignty was the idea that there is a final and absolute political authority in the political community; and everything that needs to be added to complete the definition is added if this statement is continued in the following words: ‘and no final and absolute authority exists elsewhere,’ ”.14 Later theorists from Locke, to Mill, to Marx, to Dahl have challenged the notion that there has to be some one final source of authority, but the work of all of these writers is concerned primarily with the organization of authority within the state.

Polities can be organized in many different ways without raising any issues for either international legal or Westphalian sovereignty. Authority may be concentrated in the hands of one individual, as Bodin and Hobbes advocated, or divided among different institutions, as is the case in the United States. There can be federal or unitary structures. The one point at which the organization of domestic authority could affect international legal sovereignty occurs in the case of confederations in which the individual units of the state have some ability to conduct external relations.15

(which is called in this study international legal sovereignty)” (1995, 198). Although Cerny does not explicitly use the term sovereignty, he also makes a set of distinctions that recognize the difference between internal and external autonomy. Internally states can be strong or weak. Externally they can be dependent or autonomous. A state that is internally weak and externally dependent is classified by Cerny (1990, 101) as penetrated.

12 Skinner 1978, 287.
15 This was the case, for instance, for Bavaria, which retained the right to independent foreign representation, although largely for honorary purposes, after German unification in 1870. Oppenheim 1992, 247; Brierly 1963, 127–28.
The effectiveness of political authorities within their own borders may also vary without empirically or logically influencing international legal or Westphalian sovereignty. Whether operating in a parliamentary or presidential, monarchical or republican, or authoritarian or democratic polity, political leaders might, or might not, be able to control developments within their own territory. They might, or might not, be able to maintain order, collect taxes, regulate pornography, repress drug use, prevent abortion, minimize corruption, or control crime. A state with very limited effective domestic control could still have complete international legal sovereignty. It could still be recognized as a juridical equal by other states, and its representatives could still exercise their full voting rights in international organizations. The Westphalian sovereignty of an ineffective state would not necessarily be compromised. Domestic leaders might continue to exclude external actors, especially if these actors were not much interested in local developments. Domestic sovereignty, the organization and effectiveness of political authority, is the single most important question for political analysis, but the organization of authority within a state and the level of control enjoyed by the state are not necessarily related to international legal or Westphalian sovereignty.

Interdependence Sovereignty

In contemporary discourse it has become commonplace for observers to note that state sovereignty is being eroded by globalization. Such analysts are concerned fundamentally with questions of control, not authority. The inability to regulate the flow of goods, persons, pollutants, diseases, and ideas across territorial boundaries has been described as a loss of sovereignty. In his classic study, *The Economics of Interdependence*, Richard Cooper argued that in a world of large open capital markets smaller states would not be able to control their own monetary policy because they could not control the transborder movements of capital. James Rosenau suggests in *Turbulence in World Politics* that the basic nature of the international system is changing. The scope of activities over which states can effectively exercise control is declining. New issues have emerged such as “atmospheric pollution, terrorism, the drug trade, currency crises, and AIDS,” which are a product of interdependence or new technologies and which are transnational rather than national. States cannot provide solutions to these and other issues.

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16 Thomson 1995, 216.
While a loss of interdependence sovereignty does not necessarily imply anything about domestic sovereignty understood as the organization of authoritative decision making, it does undermine domestic sovereignty comprehended simply as control. If a state cannot regulate what passes across its borders, it will not be able to control what happens within them.

It is nowhere near as self-evident as many observers have suggested that the international environment at the end of the twentieth century has reached unprecedented levels of openness that are placing new and unique strains on states. By some measures international capital markets were more open before the First World War than they are now.\textsuperscript{19} The importance of international trade has followed a similar trajectory, growing during the last half of the nineteenth century, then falling from the first to the fifth decades of the twentieth century, then growing after 1950 to unprecedented levels for most but not all states.\textsuperscript{20} International labor movements were more open in the nineteenth century than they are now.\textsuperscript{21} Some areas have become more deeply enmeshed in the international environment, especially East Asia; others, notably most of Africa, remain much more isolated. Regardless of the conclusions that are reached about changes in international flows, there have still been considerable variations in national political responses. Increases in transnational flows have not made states impotent with regard to pursuing national policy agendas; increasing transnational flows have not necessarily undermined state control. Indeed, the level of government spending for developed countries has increased along with various measures of globalization since 1950.\textsuperscript{22}

Interdependence sovereignty, or the lack thereof, is not practically or logically related to international legal or Westphalian sovereignty. A state can be recognized as a juridical equal by other states and still be unable to control movements across its own borders. Unregulated transborder movements do not imply that a state is subject to external structures of authority, which would be a violation of Westphalian sovereignty. Rulers can lose control of transborder flows and still be recognized and be able to exclude external actors.

In practice, however, a loss of interdependence sovereignty might lead rulers to compromise their Westphalian sovereignty. Indeed, neoliberal institutionalism suggests that technological changes, which have reduced the costs of transportation and communication, have led to a loss of interdependence sovereignty, which, in turn, has prompted states to enter into

\textsuperscript{19} Obstfeld and Taylor 1997.
\textsuperscript{20} Thomson and Krasner 1989.
\textsuperscript{21} J. Williamson 1996, 16, 18, table 2.1.
\textsuperscript{22} Garrett 1998.
agreements (an exercise of international legal sovereignty) to create international institutions, some of which have compromised their Westphalian sovereignty by establishing external authority structures.23

Thus the first two meanings of sovereignty, interdependence sovereignty and domestic sovereignty, are logically distinct from the basic concerns of this study—international legal sovereignty and Westphalian sovereignty. The structure of domestic political authority and the extent of control over activities within and across territorial boundaries are not necessarily related to international recognition or the exclusion of external actors, although behaviorally the erosion of domestic or interdependence sovereignty can lead rulers to compromise their Westphalian sovereignty.

International Legal Sovereignty

The third meaning of sovereignty, international legal sovereignty, has been concerned with establishing the status of a political entity in the international system. Is a state recognized by other states? Is it accepted as a juridical equal? Are its representatives entitled to diplomatic immunity? Can it be a member of international organizations? Can its representatives enter into agreements with other entities? This is the concept used most frequently in international legal scholarship, but it has been employed by scholars and practitioners of international relations more generally.

The classic model of international law is a replication of the liberal theory of the state. The state is treated at the international level as analogous to the individual at the national level. Sovereignty, independence, and consent are comparable with the position that the individual has in the liberal theory of the state.24 States are equal in the same way that individuals are equal. The concept of the equality of states was introduced into international law by Vattel in *Le droit de gens*, first published 1758. Vattel reasoned from the logic of the state of nature. If men were equal in the state of nature, then states were also free and equal and living in a state of nature. For Vattel a small republic was no less a sovereign state than was a powerful kingdom.25

The basic rule for international legal sovereignty is that recognition is extended to entities, states, with territory and formal juridical autonomy. This has been the common, although as we shall see, not exclusive, practice. There have also been additional criteria applied to the recognition of specific governments rather than states: the Communist government in China, for instance, as opposed to the state of China. These additional

rules, which have varied over time, have included the ability to defend and protect a defined territory, the existence of an established government, and the presence of a population.\textsuperscript{26}

The supplementary rules for recognizing specific governments, as opposed to states, have never been consistently applied. The decision to recognize or withhold recognition can be a political act that can support or weaken a target government. Weaker states have sometimes argued that the recognition of governments should be automatic, but stronger states, who might choose to use recognition as a political instrument, have rejected this principle. States have recognized other governments even when they did not have effective control over their claimed territory, such as the German and Italian recognition of the Franco regime in 1936, and the American recognition of the Lon Nol government in Cambodia in 1970. States have continued to recognize governments that have lost power, including Mexican recognition of the Spanish republican regime until 1977, and recognition of the Chinese Nationalist regime by all of the major Western powers until the 1970s. States have refused to recognize new governments even when they have established effective control, such as the British refusal in the nineteenth century to recognize the newly independent Latin American states until a decade after they had established effective control, the Russian refusal to recognize the July monarchy in France until 1832, and the U.S. refusal to recognize the Soviet regime until 1934. The frequency and effectiveness of the use of recognition or nonrecognition as a political instrument have depended both upon the distribution of power (conflicting policies by major powers reduce the impact of recognition policies) and the degree of ideological conflict.\textsuperscript{27}

More interesting from the perspective of this study is not the fact that specific governments have been denied or given recognition, but rather that even entities, as opposed to specific governments, that do not conform with the basic norm of appropriateness associated with international legal sovereignty have been recognized. Entities that lack either formal juridical autonomy or territory have also been recognized. India was a member of the League of Nations and a signatory of the Versailles settlements even though it was a colony of Britain. The British Dominions were signatories at Versailles and members of the league even though their juridical independence from Britain was unclear. India and the Philippines were founding members of the United Nations even though they did not become formally independent until 1946 and 1947 respectively. The Palestinian Liberation Organization (PLO) was given observer status in the

\textsuperscript{26} Fowler and Bunck 1995, chapt. 2; Thomson 1995, 228; Oppenheim 1992, 186–90; Crawford 1996, 500.

United Nations in 1974 and this status was changed to that of a mission in 1988 coincident with the declaration of Palestinian independence even though the PLO did not have any independent control over territory. Byelorussia and the Ukraine were members of the United Nations even though they were part of the Soviet Union. Andorra became a member of the United Nations in 1993 even though France and Spain have control over its security affairs and retain the right to appoint two of the four members of its Constitutional Tribunal. Hong Kong, a British colony and then part of China, became a founding member of the World Trade Organization even though China was not. The Order of Malta is recognized as a sovereign person by more than sixty states even though it lost control of Malta in 1798 and holds no territory other than some buildings in Rome.

The uncertainty surrounding the recognition of specific governments, and even the violations of the principle that recognition should be limited to territorial entities that are juridically independent, have not reduced the attractiveness of international legal sovereignty for rulers or created an environment in which basic institutional arrangements have been challenged.

Almost all rulers have sought international legal sovereignty, the recognition of other states, because it provides them with both material and normative resources. Sovereignty can be conceived of as “a ticket of general admission to the international arena.” All recognized states have juridical equality. International law is based on the consent of states. Recognized states can enter into treaties with each other, and these treaties will generally be operative even if the government changes. Dependent or subordinate territories do not generally have the right to conclude international agreements (although, as with everything else in the international system, there are exceptions), giving the central or recognized authority a monopoly over formal arrangements with other states.

Even though the differences in treatment can be blurred, it is better to be recognized than not. Nonrecognition is not a bar to the conduct of commercial and even diplomatic discourse, but it can introduce an element of uncertainty into the calculations of actors. Ex ante they may not be able to predict how particular governments or national court systems will respond to an unrecognized government. Multinational firms might be more reluctant to invest.

31 Fowler and Bunck 1995, 12.
33 For a discussion of the relationship between the Sovereign Immunities Act in the United States and recognition, see Movsesian 1996.
By facilitating accords, international legal sovereignty offers the possibility for rulers to secure external resources that can enhance their ability to stay in power and to promote the security, economic, and ideational interests of their constituents. The rulers of internationally recognized states can sit at the table. Entering into certain kinds of contracts, such as alliances, can enhance security by reducing uncertainty about the commitment of other actors. Membership in international financial institutions opens the possibility, although not the assurance, of securing foreign capital. Even if rulers have entered into accords that have far-reaching effects on their domestic autonomy, such as the European Union, they have nothing to lose by retaining their international legal sovereignty, including their formal right to withdraw from any international agreements.

Recognition also provides a state, and by implication its rulers, with a more secure status in the courts of other states. The act of state doctrine holds, in the words of one U.S. Supreme Court decision, that “Every sovereign State is bound to respect the independence of every other sovereign State, and the courts of one country will not sit in judgment on the acts of the government of another done within its own territory.”35 In British and American courts recognition is consequential because the sovereign or public acts of a recognized state, as opposed to its private or commercial acts, cannot be challenged, and the property of a recognized state is immune from seizure. Traditionally only the citizens of recognized states have been able to appear as parties to litigation in the United States. If a government or state is not recognized either de jure or de facto, then American and British courts need not consider its legislation valid—for instance, in deciding whether a piece of property has been legally transferred.36

Recognition also provides immunity for diplomatic representatives from both civil and criminal actions. Representatives are not subject to any form of arrest or detention, although the host country can refuse to receive, or can expel, specific individuals. Diplomatic premises can not be entered by representatives of the host country. Diplomatic bags can not be opened.37

The attractiveness of international legal sovereignty can also be understood from a more sociological or cognitive perspective. Recognition as a state is a widely, almost universally understood construct in the contemporary world. A ruler attempting to strengthen his own position by creating

34 Fowler and Bunck 1995, 142.
or reinforcing a particular national identity is more likely to be successful if his state or his government enjoys international recognition. Recognition gives the ruler the opportunity to play on the international stage; even if it is only a bit part, parading at the United Nations or shaking hands with the president of the United States or the chancellor of Germany, can enhance the standing of a ruler among his or her own followers. In an uncertain domestic political situation (a situation in which domestic sovereignty is problematic), international recognition can reinforce the position of rulers by signaling to constituents that a ruler may have access to international resources, including alliances and sovereign lending. Hence, international legal sovereignty can promote the interests of rulers by making it easier for them to generate domestic political support not just because they are in a better position to promote the interests of their constituents but also because recognition is a signal about the viability of a political regime and its leaders.

Like other institutional arrangements in the international environment, however, international recognition is not a constitutive act in the sense that the absence of recognition precludes the kinds of activities that recognition itself facilitates. Governments have maintained administrative contacts and signed agreements with governments they have not recognized; they have exchanged trade missions, registered trademarks, accepted consular missions, and concluded arrangements for the exchange of prisoners of war. Representatives of one state have had contacts with representatives of other states that they have not recognized; for instance, the United States sent a personal representative to the Holy See when the Vatican was not recognized by the United States; U.S. and mainland Chinese officials met in Geneva in 1954; the Vietnam peace negotiations in Paris from 1970 to 1973 took place when the United States did not recognize the North Vietnamese government; President Nixon went on an official visit to China in 1971 when the two countries did not recognize each other. National court systems have increasingly been given discretion by their own governments to decide whether the actions of nonrecognized governments will be given special legal standing. The U.S. Protection of Diplomats Act of 1971 provides for the protection of diplomats even if their governments have not been recognized by the United States. When the United States recognized the People’s Republic of China as the legitimate government of China in 1979 and withdrew recognition from the Republic of China (ROC), it established a special status for Taiwan. The Taiwan Relations Act stipulated that the legal standing of the ROC in American courts would not be affected, that Taiwan would continue to be a member of international financial institutions, and that the American Institute in
Taiwan, a nongovernmental agency, would be created, in effect, to conduct the functions of an embassy.\textsuperscript{38}

As the following chapters demonstrate, whatever international recognition has meant, it has not led rulers to eschew efforts to alter the domestic authority structures, policies, or even personnel of other states, or to enter into contractual relationships that compromise the autonomy of their own state. International legal sovereignty does not mean Westphalian sovereignty. Moreover, it does not guarantee that legitimate domestic authorities will be able to monitor and regulate developments within the territory of their state or flows across their borders; that is, it does not guarantee either domestic sovereignty or interdependence sovereignty.\textsuperscript{39}

Indeed, international legal sovereignty is the necessary condition for rulers to compromise voluntarily aspects of their Westphalian sovereignty. Nowhere is this more apparent than in the European Union. In an interview shortly before the opening of the April 1996 European Union conference on governance in Turin, Jacques Chirac, the president of France, stated that “In order for Europe to be widened it must in the first instance be deepened, but the sovereignty of each state must be respected.”\textsuperscript{40} Chirac was arguing that the member states of the European Union must retain their international legal sovereignty, even while they were entering into agreements that compromised their Westphalian, interdependence, and domestic sovereignty since the European Union can regulate transborder movements; the European Court exercises transnational authority; and some European Union decisions can be taken by a majority vote of the member states.

Finally, it should be obvious that international legal sovereignty does not guarantee the territorial integrity of any state or even the existence of

\textsuperscript{38} Oppenheim 1992, 158–73; M. Peterson 1997, 107–8, 140, 148–52, 197; United States, Taiwan Relations Act.

\textsuperscript{39} With American troops about to leave Italy in the summer of 1947 following the ratification of the Italian Peace Treaty, George Marshall, the American secretary of state, indicated to the U.S. embassy in Rome that it must be stressed to General Lee (commander of allied forces) that “Govt Allied mil in Italy must respect scrupulously restoration Ital sovereignty upon coming into force treaty” (United States, FRUS, [1947, vol. 3], 1972, 931). This message was sent at time when the United States was intervening in Italian domestic politics by supporting the Christian Democrats, trying to restructure the Socialist Party, and attempting to weaken the position of the Communist Party in Italy. Marshall wanted to recognize Italy’s international legal sovereignty, but he was completely unconcerned with Italy’s Westphalian sovereignty, with the exclusion of American influence from Italy’s domestic authority formations. See J. Miller 1986, 243–63.

\textsuperscript{40} Frankfurter Allgemeine Zeitung, March 26, 1996, 1, translated by the author. The original quotation reads: “Um sich erweitern zu können, muss sich Europa zunächst vertiefen, wobei es die Souveränität seiner Staaten respektieren muss.”
a state. Recognized states have been dismembered and even absorbed. The conquest of any particular state extinguishes the sovereignty of that state (domestic, Westphalian, interdependence, and usually international legal), but conquest is not a challenge to Westphalian and international legal sovereignty as institutional forms. It reconfigures borders but does not create new principles and norms.

Westphalian Sovereignty

Finally, sovereignty has been understood as the Westphalian model, an institutional arrangement for organizing political life that is based on two principles: territoriality and the exclusion of external actors from domestic authority structures. Rulers may be constrained, sometimes severely, by the external environment, but they are still free to choose the institutions and policies they regard as optimal. Westphalian sovereignty is violated when external actors influence or determine domestic authority structures.

Domestic authority structures can be infiltrated through both coercive and voluntary actions, through intervention and invitation. Foreign actors, usually the rulers of other states, can use their material capabilities to dictate or coerce changes in the authority structures of a target; they can violate the rule of nonintervention in the internal affairs of other states. Rulers may also themselves establish supranational or extranational authority structures that constrain their own domestic autonomy; they can extend invitations, sometimes inadvertent, that result in compromises of their own Westphalian sovereignty. While coercion, intervention, is inconsistent with international legal as well as Westphalian sovereignty, voluntary actions by rulers, invitations, do not violate international legal sovereignty although they do transgress Westphalian sovereignty.

The norm of nonintervention in internal affairs had virtually nothing to do with the Peace of Westphalia, which was signed in 1648. It was not clearly articulated until the end of the eighteenth century. Nevertheless, the common terminology is used here because the Westphalian model has so much entered into common usage, even if it is historically inaccurate.

The fundamental norm of Westphalian sovereignty is that states exist in specific territories, within which domestic political authorities are the sole arbiters of legitimate behavior. While autonomy can be compromised as a result of both intervention and invitation, the former has gotten much more attention. For many observers, the rule of nonintervention—which is always violated through coercion or imposition, as opposed to voluntary invitation—is the key element of sovereign statehood. Robert Jackson writes that: “The grundnorm of such a political arrangement (sovereign statehood) is the basic prohibition against foreign intervention which simultaneously imposes a duty of forbearance and confers a right of indepen-
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Since states are profoundly unequal in power the rule is obviously far more constraining for powerful states and far more liberating for weak states.\(^{41}\)

The principle of nonintervention was first explicitly articulated by Wolff and Vattel during the last half of the eighteenth century. Wolff wrote in the 1760s that “To interfere in the government of another, in whatever way indeed that may be done is opposed to the natural liberty of nations, by virtue of which one is altogether independent of the will of other nations in its action.”\(^{42}\) Vattel argued that no state had the right to intervene in the internal affairs of other states. He applied this argument to non-European as well as European states, claiming that “The Spaniards violated all rules when they set themselves up as judges of the Inca Athualpa. If that prince had violated the law of nations with respect to them, they would have had a right to punish him. But they accused him of having put some of his subjects to death, of having had several wives, &c—things, for which he was not at all accountable to them; and, to fill up the measure of their extravagant injustice, they condemned him by the laws of Spain.”\(^{43}\)

Weaker states have always been the strongest supporters of the rule of nonintervention. During the nineteenth century the Latin American states endorsed this rule at international meetings in 1826 and 1848. In 1868 the Argentine jurist Carlos Calvo published a treatise in which he condemned intervention by foreign powers to enforce contractual obligations of private parties. The foreign minister of Argentina, Luis Drago, argued in a note to the American government in 1902 that intervention to enforce the collection of public debts was illegitimate. The Calvo and Drago doctrines became recognized claims in international law. At the sixth International Conference of American States held in Havana in 1928, the Commission of Jurists recommended adoption of the principle that “No state has a right to interfere in the internal affairs of another.” This proposal, however, was rejected, in large part because of the opposition of the United States. The United States had engaged in several interventions in Central America and the Caribbean. The American secretary of state, Charles Evans Hughes, argued that the United States had a right to intervene to protect the lives of its nationals should order break down in another country. At the seventh International Conference of American States held in 1933, the United States finally accepted the principle of nonintervention. The wording that “no state has the right to intervene in the internal or external affairs of another” was included in the Convention on

\(^{41}\) Jackson 1990, 6.
\(^{42}\) Quoted in A. Thomas and Thomas 1956, 5.
\(^{43}\) Vattel 1852, 155.
Rights and Duties of States and accepted by the United States. The Charter of the Organization of American States (OAS) stipulates that “No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economic, and cultural elements.” In the latter part of the twentieth century nonintervention has been routinely endorsed in major international agreements such as the United Nations Charter and the 1975 Helsinki agreement, albeit often along with other principles such as human rights that are in tension with nonintervention.

While Westphalian sovereignty can be compromised through invitation as well as intervention, invitation has received less notice in the literature because observers have confounded international legal and Westphalian sovereignty. Intervention violates both. Invitation violates only Westphalian sovereignty. Invitation occurs when a ruler voluntarily compromises the domestic autonomy of his or her own polity. Free choices are never inconsistent with international legal sovereignty.

Invitations can, however, infringe domestic autonomy. Rulers may issue invitations for a variety of reasons, including tying the hands of their successors, securing external financial resources, and strengthening domestic support for values that they, themselves, embrace. Invitations may sometimes be inadvertent; rulers might not realize that entering into an agreement may alter their own domestic institutional arrangements. Regardless of the motivation or the perspicacity of rulers, invitations violate Westphalian sovereignty by subjecting internal authority structures to external constraints. The rulings of the European Court of Justice, for instance, have legitimacy in the judicial systems of the member states of the European Union. IMF conditionality agreements, which may include stipulations requiring changes in domestic structures, carry weight not only because they are attached to the provision of funding but also because the IMF has legitimacy for some actors in borrowing countries derived from its claims to technical expertise. Human rights conventions can provide focal points that alter conceptions of legitimacy among groups in civil society and precipitate possibly unanticipated changes in the institutional arrangements of signatory states.

Violations of Westphalian sovereignty can arise in a sovereign state system because the absence of a formal hierarchical system of authority, the
defining characteristic of any international system, does not mean that the authority structures in any given political entity will be free of external influence. Wendt and Friedheim have defined informal empires as “transnational structures of de facto political authority in which members are juridically sovereign states.”47 Formal constitutional independence does not guarantee de facto autonomy. A recognized international legal sovereign will not necessarily be a Westphalian sovereign.

In recent years a number of analysts have used the Westphalian model as a benchmark to assert that the character of the international system is changing in some fundamental ways. Writing of the pre-1950s world, James Rosenau contends that “In that system, legitimate authority was concentrated in the policy-making institutions of states, which interacted with each other on the basis of equality and accepted principles of diplomacy and international law. Their embassies remained inviolable and so did their domestic affairs. Intrusion into such matters were met with protests of violated sovereignty and, not infrequently, with preparations for war. For all practical purposes, the line between domestic and foreign affairs was preserved and clearly understood by all. The norms of the Western state system lodged control over external ties in the state and these were rarely defied and even more rarely revised.” Philip Windsor states that “It is fashionable, at present, to suggest that the old Westphalian system of a world of non-interventionist states is on the decline, and that the dangers of growing intervention by different powers in the affairs of other states have been on the increase. The Westphalian system represented some remarkable achievements: the absolute sovereignty of a state rested on a dual basis whereby internal authority was matched by freedom from external interference; and in this way the principle of cuius regio, eius religio, codified in the Religious Peace of Augsburg, laid the foundation of the modern states system.”48

The way in which some analysts have understood sovereignty in terms of the Westphalian model is brought out clearly by authors who have studied minority or human rights, because claims about such rights are seen as a contradiction of sovereignty. In one of the most important studies of minority rights in the interwar period C. A. Macartney writes, “The doctrine of state sovereignty does not admit that the domestic policy of any state—the policy which it follows towards its own citizens—can be any concern of any other state.” In a more recent study of human rights Forsythe suggests that “The most fundamental point about human rights law is that it

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47 Wendt and Friedheim 1996, 245.
48 Rosenau 1990, 109; Windsor 1984, 45.
establishes a set of rules for all states and all people. It thus seeks to increase world unity and to counteract national separateness (but not necessarily national distinctions). In this sense, the international law of human rights is revolutionary because it contradicts the notion of national sovereignty—that is, that a state can do as it pleases in its own jurisdiction.” Writing in the 1990s about the status of minority groups Kay Hailbronner claims that “Modern public international law seems to have broken through the armour of sovereignty.” Similarly Brian Hehir has asserted that “In the Westphalian order both state sovereignty and the rule of nonintervention are treated as absolute norms.” He then goes on to suggest that this Westphalian system is under an unprecedented level of assault.

Despite these claims about unparalleled change, the most important empirical conclusion of the present study is that the principles associated with both Westphalian and international legal sovereignty have always been violated. Neither Westphalian nor international legal sovereignty has ever been a stable equilibrium from which rulers had no incentives to deviate. Rather, Westphalian and international legal sovereignty are best understood as examples of organized hypocrisy. At times rulers adhere to conventional norms or rules because it provides them with resources and support (both material and ideational). At other times, rulers have violated the norms, and for the same reasons. If rulers want to stay in power and to promote the security, material, and ideational interests of their constituents, following the conventional practices of Westphalian and international legal sovereignty might or might not be an optimal policy. After the Second World War it was preferable for the rulers of western Europe to sign the European Human Rights Convention, which compromised their Westphalian sovereignty, than to insist that the domestic autonomy of their polities be unconstrained. In the late 1990s it was better for the rulers of China and other states to allow Hong Kong, which did not have juridical independence after its return to China, to enjoy international recognition; Hong Kong continued its participation or joined international organizations, including the World Trade Organization, whose members denied China itself the right to become a founding member.

In sum, analysts and practitioners have used the term sovereignty in four different and distinct ways. The absence or loss of one kind of sovereignty does not logically imply an erosion of others, even though they may be empirically associated with each other. A state can be recognized, but its authority structures can be de facto subject to external authority or control. It can lose control of transborder movements but still be autonomous.

Rulers have almost universally desired international legal sovereignty, but this has not meant that they have universally followed the rule of recognizing only juridically autonomous territorial entities. Rulers have recognized entities that lack formal juridical autonomy or even territory, and they have denied recognition to governments that have exercised effective control over the territory of a recognized state. Recognition can be a political act, one designed to support a specific government or legitimate the claims to territorial autonomy of particular rulers, and adherence to the basic principle of international legal sovereignty might, or might not, enhance these purposes.

The tensions between the conventional rule and actual practice have been more severe for Westphalian than international legal sovereignty. Rulers have sometimes invited external actors to compromise the autonomy of their own state. Westphalian sovereignty has also been violated through intervention; more powerful states have coerced their weaker counterparts into altering the domestic institutional arrangements of their polities. Following the rule of Westphalian sovereignty—preserving the de facto autonomy of a territorial political entity—might, or might not, further the interests of rulers.

The international system is complex. Information is imperfect. There are no universal structures that can authoritatively resolve conflicts. Principles and rules can be logically contradictory. Power asymmetries can be high. Widely recognized and endorsed principles will not always promote the interests of rulers. Logics of consequences can trump logics of appropriateness. Westphalian and international legal sovereignty, the major concerns of this study, are examples of organized hypocrisy. They are both defined by widely understood rules. Yet, these rules have been comprised, more frequently in the case of Westphalian than international legal sovereignty.

**Modalities of Compromise**

Deviations from institutional norms and rules, whether of international legal or Westphalian sovereignty (or any other institutional arrangement for that matter) can occur in four ways: conventions, contracts, coercion, and imposition. These four modalities are distinguished along two underlying dimensions. First, does the behavior or policy of one ruler depend

50 There have been cases where rulers have sought to abandon international legal sovereignty. For instance, the leaders of Nicaragua and Guatemala asked to join the United States in the 1840s and the president of Belarus contemplated joining with the Soviet Union in 1990s.
Rulers can join international conventions in which they agree to abide by certain standards regardless of what others do. Rulers can enter into contracts in which they agree to specific policies in return for explicit benefits. Rulers can be subject to coercion, which leaves them worse off, although they do have some bargaining leverage. Finally, rulers or would-be rulers can suffer imposition, a situation that occurs when the target ruler cannot effectively resist.

The Westphalian model has been violated through all four of these modalities: rulers have issued invitations that compromise their autonomy by joining conventions or signing contracts, and they have intervened in the internal affairs of other states through coercion and imposition. Departures from international legal sovereignty, especially with regard to recognizing entities that lack juridical independence or autonomy, have occurred less frequently and have depended primarily on contracts, Pareto-improving mutual agreements.

The distinctions between conventions, contracts, coercion, and imposition are summarized in Figure 1.1. A convention makes rulers better off—otherwise they would not have accepted it—even if not all parties honor its terms. Contracts make at least one ruler better off and none worse off, but only if the participants honor their commitments. If one party reneges, so will the other. For rulers contemplating entering into conventions and contracts, the status quo remains available. Rulers are no worse off if they do not participate. Conventions and contracts are voluntary accords.

Coercion and imposition leave one of the parties worse off. In situations of coercion one ruler threatens to impose sanctions on another if the target ruler does not alter his or her policies. The target can reject these demands, in which case it suffers sanctions, or accept them. In either case the target is worse off. The status quo ante is no longer an option. The target can either suffer sanctions or make changes.

Imposition is the logical terminus of coercion. It involves a situation in which the target has no choice but to accept the demands of the initiator: your money or your life is not a question that encourages bargaining. The target is so weak that it cannot effectively resist. In the extreme the weaker ruler would either be removed from office or, in the case of rulers of would-be states, never be allowed to assume office in the first place.

With regard to concerns of this study, invitations, which compromise autonomy through conventions and contracts, violate Westphalian sovereignty but not international legal sovereignty; in fact, all contracts and conventions are facilitated by and are a confirmation of international legal sovereignty. What is critical for international legal sovereignty is that the
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Pareto Improving

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Figure 1.1. Modalities of Compromise

ruler formally retains the right to terminate the contract and that the contract or convention is voluntary.

Coercion and imposition involving issues of autonomy are violations of both international legal sovereignty and Westphalian sovereignty. Both coercion and imposition leave one of the parties worse off. The weaker actor would not have accepted an outcome inferior to the status quo ante if it were not faced with the threat of sanctions, possibly including the use of force. In the most extreme case, the target could be eliminated. Coercion and imposition violate a basic norm of international legal sovereignty, which is that states have the right to act voluntarily. Rulers would never voluntarily accept an arrangement that leaves them worse off.

The modality through which norms might be violated depends on configurations of power and interest. Imposition can only occur when interests are different and power asymmetries high. The initiator must have overwhelming power, the ability to determine the life or death, figuratively and sometimes literally, of rulers in the target entity (state or would-be state). Often this power takes the form of military resources, but in some cases it has involved the initial recognition not just of a particular government but of the state itself. Already established and powerful states have engaged in imposition by conditioning recognition on the target’s acceptance of conditions related to domestic political structures. Rejection would mean that the target never becomes an actor. The status quo is an option, but the status quo, an absence of international recognition, would leave the ruler without a state to rule.

Coercion also can take place if the preferences of rulers are different and if there are asymmetries of power. For coercion, however, the asymmetries are less than is the case for imposition. The initiator cannot annihilate the target. The target ruler is worse off if he or she resists and suffers the imposition of sanctions, but the ruler does not cease to exist. The target is faced not with the alternatives of capitulation or nonexistence but with a choice between suffering the costs of sanctions or the costs of acceding
to the initiator’s demands. In situations of coercion the status quo ante is no longer an option. Rulers in the target state cannot simply reject the demands of the initiator without suffering negative consequences.

For contracting to occur, there must be opportunities for cooperation; actors must have complementary interests, but power can also matter. All rulers are better off as a result of a contract, although some may be better off than others. Acceptance is always voluntary. The status quo ante remains an option; the ruler is no worse off if the contract is rejected. The terms of a specific contract may depend on the bargaining power of rulers, their ability to threaten credibly to stay with the status quo rather than conclude an agreement. In contracting, however, one ruler is never worse off.

Conventions only involve interests, usually ideational rather than material. Power is irrelevant. Rulers are not forced to join conventions; they can remain with the status quo and be no worse off. The behavior of one ruler, the extent to which he (or she) implements a convention, is not contingent on the behavior of others. Conventions are not likely to involve security or economic interests where contingent behavior matters because the utility of one ruler depends on other rulers honoring the terms of the agreement; if one actor reneges, so will others. Rulers may, however, find that their ideational interests can be furthered, regardless of whether other signatories to a convention honor their commitments. Conventions can only occur if rulers have complementary or identical interests.

Violations of Westphalian sovereignty have been almost routine in international politics even though observers have been blinded to their frequency by the assumption that the Westphalian model has been operative. Violations of international legal sovereignty have been less common. They have almost always been the result of voluntary decisions, contracting or conventions; rulers have mutually agreed to departures from the norm that international recognition should be accorded to juridically autonomous territorial entities.

Some of the empirical data of the following chapters, arrayed according to the modalities through which Westphalian sovereignty has been compromised, is summarized here. Selection bias is an issue, especially with regard to minority and human rights, issues that are thematically discussed in Chapters 3 and 4. Cases involving minority rights and human rights have been sampled on the dependent variable; situations where the Westphalian model has not been challenged have not been investigated. Nevertheless, the empirical evidence associated with the extent to which relations between rulers and ruled have been subject to external pressures or authority structures should not be dismissed as simply the result of scavenging for examples that support the argument presented here. First,
almost all minority rights cases are associated with the major peace treaties of the last four centuries—Westphalia, Vienna, Berlin, Versailles—as well as other settlements linked to salient conflicts such as the Peace of Paris, which ended the Crimean War, and the Dayton accords, which brought some stability to Bosnia. These treaties are not the result of selection bias. This study could have been organized around an examination of the multiple norms that have been incorporated in major peace settlements. Second, most of the countries of eastern and central Europe have had autonomy with regard to their national legal order regarding minority rights or human rights for only a fraction of their existence as international legal sovereigns, namely the period from the Second World War until the end of the cold war, and during these years the Westphalian sovereignty of most of these countries was compromised in even more dramatic ways by Soviet intervention. Hence, perhaps half of the countries of Europe have never enjoyed Westphalian sovereignty for a single moment of their existence as international legal sovereigns. Third, although situations where states have been autonomous with regard to minority and human rights are not examined systematically, the data presented in this study suggest that more powerful states are unlikely to lose their Westphalian sovereignty unless they invite external authority through conventions or contractual arrangements. Only weaker states have been the targets of intervention through coercion or imposition.

Sovereign lending is an issue area where violations of the Westphalian model have been pervasive for weaker states. When rulers, or governments, or international financial institutions have extended loans to other rulers, they have often demanded direct authority and control over revenue-generating activities; they have not just set terms of repayment, but also stipulated changes in policies, personnel, or institutions. This is true for virtually all of the lending that has been conducted by international financial institutions since the 1950s and for much of the lending to weaker states in the nineteenth century. Chapter 5 presents a wide array, if not the full universe, of cases of sovereign lending. Sovereign lending has been associated with violations of Westphalian norms through imposition, coercion, and contracting.

Chapters 6 and 7 examine the extent to which constitutional structures in all of the states that were created in the nineteenth and twentieth centuries were subject to some external authority structure. There is no sampling on the dependent variable. Almost the entire universe of cases is explored. Could rulers or would-be rulers and their constituents choose the constitutional structure that they preferred or were basic organizational characteristics of their polities determined or influenced by external actors? In the nineteenth century the new states in the Balkans were sub-
ject to external coercion or imposition; their counterparts in Latin America were not. In the twentieth century violations of the Westphalian model took place primarily in Central America and the Caribbean and, perhaps ironically, in Europe itself, but were less extensive in the newly independent African and Asian states, because the major powers cared less.

Conventions

The conventions\(^{51}\) examined in this book relate to Westphalian sovereignty. These conventions are voluntary agreements in which rulers make commitments to follow certain kinds of practices involving relations between rulers and ruled within their own borders; commitments that are not contingent on the extent to which other signatories honor the same accord. These agreements can expose domestic practices to external scrutiny. To one degree or another a convention can violate Westphalian principles by undermining the autonomy of the state; conventions invite, although do not inevitably result in, external actors having some influence on domestic authority structures. In the most compelling example of a convention that violates Westphalian sovereignty, the European Human Rights regime, individuals within signatory states can bring cases against their own government in the European Court of Human Rights and the decisions of the court are binding on national judiciaries. In the weakest cases, signing a convention might have no effect on the de facto autonomy of a signatory state whose rulers might simply ignore its provisions.

All of the empirical instances of conventions discussed in this study deal with either the rights of minorities or other specially designated groups such as guest workers, or with human rights, which apply to all individuals. It is conceivable that conventions could occur in other issue areas such as security or economic exchange, but not likely. In matters of material well-being and defense, agreements will almost certainly be contingent; the behavior of one ruler will depend upon that of others.

Conventions are primarily a development of the twentieth century. The only example of a convention in the nineteenth century that I have discovered involves the rights of Polish nationals after the Napoleonic Wars. As part of the Vienna settlement, the rulers of the major powers committed themselves to preserving the national institutions of the Poles, even though Poland itself had been partitioned among Russia, Prussia, and Austria.

Many conventions have been signed in the twentieth century. In 1926 the League of Nations adopted a convention outlawing slavery. The International Labour Organization, which was created after the First World

\(^{51}\) I am indebted to Jay Smith for suggesting this term.
War, endorsed a number of agreements regarding the treatment and conditions of workers, all of which were conventions. For instance, the fact that one state violated the terms of the 1930 Convention Regarding Forced and Compulsory Labor, which stipulated that forced labor was to be paid at prevailing wages and would never be used in mines, did not mean that others would do so as well.\footnote{Convention on Forced and Compulsory Labor, reprinted in Brownlie 1992, 246–56.}

After the Second World War, the number of conventions increased dramatically. About fifty agreements involving relations between rulers and ruled have been ratified. Most have been adopted within the United Nations system, including broad statements of general principle such as the commitment to human rights in the Preamble to the Charter of the United Nations and the United Nations conventions dealing with political rights and with social and economic rights, as well as accords on more specific issues such as slavery, women, children, refugees, stateless persons, genocide, and torture. There have been a number of regional conventions as well, the most consequential of which have been adopted in the Western Hemisphere and Europe.

The enforcement and monitoring mechanisms for these conventions vary enormously. Some, such as the Universal Declaration of Human Rights, do not have the status of a formal treaty and are devoid of monitoring provisions. Others—for example, the conventions on slavery, the status of refugees, and political rights of women—provide that disputes can be referred to the International Court of Justice. No human rights cases have, however, been referred to the court. Others, such as the conventions on racial discrimination, apartheid, and the rights of the child, provide for the creation of committees that receive information and can, with the approval of the concerned states, investigate alleged violations.

The European Convention on Human Rights, which entered into force in 1953, and subsequent protocols have by far the most wide ranging enforcement provisions and most elaborated organizational structure. The European Commission on Human Rights can hear complaints from individuals, nongovernmental organizations (NGOs), and states; it receives about four thousand communications a year. The European Court of Human Rights can make decisions that are binding on national jurisdictions. The jurisdiction of the commission (composed of independent experts) and the court has been recognized by more than twenty signatories to the convention. Decisions of the commission and the court have led to legal changes in Belgium, Switzerland, Germany, and Sweden.\footnote{Donnelly 1992, 82–83; Forsythe 1989, 19.}

None of these conventions violates international legal sovereignty. The extent to which they have violated Westphalian sovereignty depends on
whether they have any actual impact on the domestic authority structures
of signatory states. General statements of principle like the Universal Dec-
laration of Human Rights can only affect Westphalian sovereignty indi-
rectly if they in some way mobilize domestic groups that then influence
authority structures. Conventions with formal reporting requirements
might, or might not, change state practice.

The question of whether human rights conventions alter policy can only
be answered by examining behavior, not simply by looking at the terms
of the agreement. Andrew Moravcsik has pointed out that the formal
provisions of the Inter American human rights regime are as, or more,
organizationally elaborated than the European regime, but have been less
consequential because there has been less domestic political support. At
least until the 1990s, and the collapse of the Soviet bloc, the correlation
between the behavior of governments with regard to human rights and
the number of United Nations accords they had signed was weak (see
Chapter 5).

There is no single explanation for why countries sign conventions. Rul-
ers could sign because they expect that this would strengthen values
and practices that they are committed to by tying the hands of their succes-
sors or making particular principles and norms more attractive to other
rulers. In the case of the European regime, the rulers of western Europe,
especially in those countries where democracy was fragile, wanted to rein-
force democratic values. The existence of the regime made it more likely
that citizens would have a clearer view of what constituted illegitimate
state acts.

Where enforcement and monitoring provisions have been weak, as has
generally been the case for human rights regimes, rulers might sign be-
because, even though they are indifferent or antipathetic to human rights
within their own state, they might believe that signing would make their
regime appear more palatable to external and internal actors. Stalin’s will-
ingness to sign on to some human rights conventions could be viewed
as a cynical act designed to make the Soviet Union more attractive to
Communist sympathizers in other countries. The Helsinki accords, which
included human rights provisions, altered the behavior of groups in civil
society in eastern Europe, much to the dismay and surprise of their Com-
munist overlords, who had signed because they believed that the provi-
sions of the accord dealing with borders and economic exchange would
strengthen their position.

55 Moravcsik 1998. For a discussion of the importance of such views about what consti-
tutes a transgression of rights, see Weingast 1997.
56 D. Thomas 1997.
Rulers might also sign a convention because it is part of the script of modernity; it is something that a modern state does. Some rulers might not have an autonomous conception of appropriate behavior. When cognitive models provide the motivation for signing a convention, participation might, or might not, actually have an impact on domestic authority structures. In many cases, talk and action have been completely decoupled.

Contracts

A contract is an agreement between two or more rulers, or a ruler and another international actor, such as an international financial institution, that is mutually acceptable, Pareto-improving, and contingent. Contracts are always consistent with international legal sovereignty. Indeed, the ability to enter into agreements is one of the advantages of international legal sovereignty.

Contracts might, or might not, be consistent with Westphalian sovereignty. A contract can violate the Westphalian model if it alters domestic conceptions of legitimate behavior, subjects domestic institutions and personnel to external influence, or creates transnational authority structures. Obviously, many contracts between states do not transgress the Westphalian model. A military alliance, for instance, might commit one state to come to the aid of another, a trade agreement to end export subsidies, a financial accord to specify capital requirements for banks, an environmental treaty to limit fishing in international waters. Such arrangements do not alter domestic authority structures.

Rulers must regard a contract as Pareto-improving; otherwise they would not enter into it, since the status quo remains available. In contrast with conventions, however, the behavior of actors is mutually contingent. In contractual arrangements affecting Westphalian sovereignty rulers would not compromise the autonomy or territorial authority of their state unless the behavior of others also changed. If one actor abrogates the contract, others would do so as well. For both contracts and conventions rulers compromise Westphalian sovereignty through invitation; they are not the targets of intervention but rather voluntarily choose to insinuate external factors into their domestic structures of authority.

For more than three hundred years there have been contracts, often major international treaties, that have compromised Westphalian principles. It should hardly be surprising that under some circumstances rulers would find that their prospects for retaining office, or promoting the material, security, and ideational interests of their constituents would be enhanced by entering into contractual arrangements that conceded domestic autonomy. The Peace of Westphalia contained extensive provisions for religious toleration between Catholics and Protestants in Germany. Germany
had been devastated by the Thirty Years’ War, whose intensity was exacer-
bated by religious conflict. While Ferdinand III, the Habsburg ruler and
Holy Roman emperor, would have preferred to repress the Lutherans and
Calvinists, he lacked the resources to do so and, instead, accepted institu-
tional changes in the empire that specified a consociational decision-making
structure for religious questions.\footnote{Lehmbruch 1997.} In the Peace of Utrecht of 1713,
the rulers of Europe agreed that France and Spain would never be unified
under a single king, a decision that reflected a desire to enhance security
by maintaining a system that could sustain a balance of power. The Treaty
of Utrecht of 1731, in which France ceded Arcadia and the Hudson Bay
to Britain, provided for the protection of the rights of Catholics living in
these areas, a constraint on British autonomy that was accepted as part of
the more general settlement from which Britain benefited. The Peace of
Vienna protected the rights of Catholics living in the Netherlands; clauses
stipulating religious toleration were included in the basic law of the Neth-
erlands and could not, according to the treaty, be unilaterally changed
by the Dutch themselves, because the major powers wanted to limit the
possibilities of religious strife in the Low Countries.

Sovereign lending to weaker states in the nineteenth century, as well as
the twentieth, frequently was conducted through contracts that violated
Westphalian principles. When Greece was recognized as an independent
state in 1832, it accepted a sixty-thousand-franc loan, but the terms in-
volved a commitment of specific revenues as well as the presence of foreign
officials approved by the major powers of Europe. In 1881 the Ottoman
Empire established the Council of the Public Debt controlled by foreign
bondholders, which collected revenues and even engaged in development
projects. By 1910 it had more employees than the Ministry of Finance.
Again, the Ottoman rulers would have preferred to control their own
finances, but it was better to have the foreign loan with the Debt Council
than not to have the loan without it. In 1895 Serbia accepted a six-member
Monopolies Commission, two of whose members were appointed by
France and Germany, which controlled revenues from the tobacco, salt,
and petroleum monopolies, revenue that went directly to foreign bond-
holders and not into the treasury of Serbia.

In the twentieth century sovereign lending routinely involved viola-
tions of Westphalian autonomy. International financial institutions, such
as the World Bank and the International Monetary Fund, have institution-
alized and routinized practices that are inconsistent with Westphalian au-
tonomy. These institutions do not simply offer funds on the condition
that they be repaid; they extend resources only if borrowers are willing to
accept changes in their domestic policies and often institutional structures
as well. The European Bank for Reconstruction and Development, created after the collapse of the Soviet bloc, explicitly requires that member states have democratic regimes. Conditionality attached to loans from international financial institutions was initially supported by the United States but resisted at Bretton Woods by the representatives of European and Latin American states, who correctly assumed that they would be the targets of policies that were heavily influenced by American decision makers. Ultimately, the Americans succeeded in having conditionality written into the Articles of Agreement of the fund because the United States was the only source of significant capital in the 1950s.

Minority and human rights have also been promoted through contracts that violate Westphalian autonomy. Extensive minority rights agreements were concluded with all of the new states that were created at the end of the First World War. Most were the result of intervention through coercion or imposition. The leaders of most of the newly created states felt that they had no alternative but to accept the demands of the major powers. They did not want to guarantee minority rights. In a few cases, however, notably Czechoslovakia, Hungary, and the Baltic states, rulers offered invitations, voluntarily accepted protection for minorities, as part of a more general settlement that included their recognition as international legal sovereigns. After the Second World War Austria and Italy concluded treaties, contracts, covering the rights of the German-speaking minority in the South Tyrol. Germany and Denmark have made joint declarations about the status of minority speakers in the border areas of the two states.

Contracts have also been concluded that affected basic constitutional structures, not just specific institutions or policies. American practices in Italy and Germany after the Second World War involved contracts with national leaders that were designed to promote democratic regimes, or at least to exclude or repress Communist influence; national leaders invited the influence of their American counterparts. In Italy, the Christian Democrats were happy to enter into these arrangements, which enhanced their own ability to stay in power. American rulers also assiduously cultivated non-Communist leaders in Germany. They supported the Christian Democrats and other non-Communist parties. Even in Germany, which was formally occupied until 1955, American rulers could not simply dictate outcomes. They had to contract with local leaders.

The European Union, which raises issues about the principles of both territoriality and autonomy, has been created through contracts entered into by the rulers of the European states. In the Treaty of Rome, the Single European Act, Maastricht, and other agreements, rulers have promoted their interests by establishing new policies and institutional arrangements, some of which transcend territorial boundaries and compromise their domestic autonomy.
The regime for the law of the seas was developed in the 1980s and 1990s through a series of tacit and explicit contracts—that is, coordinated national policies and international agreements. One element of this regime is the exclusive economic zone (EEZ), which generally extends from twelve to two-hundred nautical miles from the shore. Within the EEZ littoral states have authority over mineral and fishing resources, but they do not have control over shipping. The EEZ does not violate autonomy; there is no exercise of external authority, but it does violate territoriality by creating an area within which states have authority over some issues but not others.

Hence, rulers have frequently concluded contracts that violate the principle of autonomy, and in some cases territoriality as well. They are better off with these agreements than without them; otherwise they would have stayed with the status quo. Better to have financial resources at lower interest rates and conditionality than to pay much higher rates or have no access to international capital markets at all. Better to have the European Court and mutual recognition (both of which violate autonomy) than not. Better for the rulers of Czechoslovakia to have an international regime for minority protection in 1919 than to leave the large German minority in the Sudetenland without any international guarantees, although in 1938 this did Czechoslovakia no good. Better for Italian Christian Democrats to accept aid and guidance from the Americans than to confront Italy’s large Communist Party without external support.

Coercion and Imposition

Coercion and imposition, both examples of intervention, exist along a continuum determined by the costs of refusal for the target state. With regard to Westphalian principles, coercion occurs when rulers in one state threaten to impose sanctions unless their counterparts in another compromise their domestic autonomy. The target can acquiesce or resist, but is always worse off than in the status quo ante. Imposition occurs when the rulers or would-be rulers of a target state have no choice; they are so weak that they must accept domestic structures, policies, or personnel preferred by more powerful actors, or else be eliminated, or, if they are weak polities that have not been recognized, remain in oblivion. The higher the cost of refusal for the target, the more a particular situation moves toward the pole of imposition. When applied against already established states, coercion and imposition are violations of the international legal, as well as the Westphalian, meaning of sovereignty. When applied against the would-be rulers of not yet created states, coercion and imposition are violations of the Westphalian model because the autonomy of any state that does emerge has been constrained by external actors, but not of international
law concepts of sovereignty, which only apply once a state has secured international recognition.

Coercion and imposition, unlike conventions and contracts, must involve power asymmetry. Imposition entails forcing the target to do something that it would not otherwise do. There is no bargaining. Effective coercion can only occur if the initiator can make credible threats to impose sanctions, which requires that the initiator would be better off if the target resists and the sanctions are imposed, than if the initiator fails to act. The initiator has the ability, the power, to remove the status quo from the set of available options.

Coercion is not a common occurrence in the international system because the conditions under which it can occur are stringent. The initiator must be able to make a credible threat. Since there is usually a cost to applying sanctions, credibility is often problematic.

The clearest cases of coercion with respect to the Westphalian model have involved the use or threat of economic sanctions. In the twentieth century sanctions have been applied more than twenty times in attempts to improve human rights or alter the domestic regime of the target either by removing the ruler or changing institutional structures. Collective sanctions against South Africa with the aim of ending apartheid were authorized by the United Nations from 1962 until 1994. The United Kingdom enacted sanctions against Uganda from 1972 to 1979 to force out Idi Amin. The European Community used economic pressure against Turkey in 1981–82 to encourage the restoration of democracy. Between 1970 and 1990 the United States imposed sanctions against more than a dozen countries for human rights violations.\(^{58}\) In all of these cases the target, even if it did not comply with the sanctions, was worse off than it had been because it could not both avoid sanctions and maintain its ex ante policies. Either it suffered sanctions, at least for some period of time, or it had to change its policies.

Imposition occurs when the target is so weak that it has no choice but to accept the demands of the more powerful. It has taken place more frequently than coercion. Force is the most obvious instrument of imposition. Imposition has been possible when there has been either a condominium among the major powers or the acceptance of spheres of influence. Great powers have been cautious about attempting to impose violations of the Westphalian model when such policies have been opposed by their major rivals, because mutual antagonism among the strong gives potential targets opportunities to maneuver.

Imposition has been employed in cases associated with minority rights, sovereign lending, and the basic constitutional structures of weaker states.

\(^{58}\) Hufbauer et al. 1990.
Chapter One

In the nineteenth century the British not only signed agreements, contracts, with major European powers, to end the slave trade; they also used military force. In 1839 Britain unilaterally authorized its ships to board suspected slavers flying the Portuguese flag, arguing that Portugal had failed to honor its treaty commitments to end the slave trade. In 1850 British warships entered Brazilian ports and burned ships that were thought to be involved in slaving.

Imposition through military force has been used to secure repayment of sovereign debt. Gunboat diplomacy in the nineteenth century involved the use of naval power to seize control of customhouses so that tariffs (the most important source of revenue for most governments) could be used to repay foreign obligations. European powers forcibly seized the customs receipts of a number of Latin American countries, activities that prompted Latin American jurists such as Calvo and Drago to explicate doctrines upholding the norm of nonintervention. Following nationalist protests against increasing foreign financial control, the British army invaded Egypt in 1882, then formally a part of the Ottoman Empire, and established a protectorate that included control of Egypt’s domestic finances. Partly in response to financial problems, U.S. leaders sent marines into the Dominican Republic in 1911, and in 1916 forced out the president, declared martial law, and appointed U.S. officials as ministers of war and the interior. Similar pressure was applied against Nicaragua at the same time, with American officials selecting the Nicaraguan president in 1916.

U.S. imposition in the Caribbean has not been limited to financial issues. American rulers made acceptance of the 1901 Platt amendment, which included provisions limiting Cuban debt, authorizing American intervention if Cuban independence was threatened, and establishing an American naval base at Guantanamo, a condition for the withdrawal of U.S. troops. American decision makers have sent troops into Haiti almost a dozen times, wrote the Haitian constitution in 1915, and appointed the president. In 1994 American military action restored a Haitian president who had been overthrown by the military. Panama became an independent state in 1903 with the support of American leaders who wanted to build a canal across the isthmus. In 1989 American troops invaded Panama, arrested its president, Manuel Noriega, and brought him back to Florida, where he was tried and convicted of criminal drug charges.

The smaller states of central and eastern Europe, like their Caribbean and Central American counterparts, have also frequently been subject to impositions that violate the Westphalian model. These states all emerged from the Habsburg and Ottoman empires. The initial existence of some of these states depended on recognition by the major powers. For rulers with limited material strength, international legal sovereignty, recognition, was valued because it could provide external resources and enhance
internal legitimacy. Unlike Lenin and Mao, the would-be rulers of Serbia, Greece, and Montenegro could not secure effective territorial control and authority on their own. The major powers were not willing to recognize these states unless their would-be rulers accepted externally dictated conditions regarding domestic political structures, policies, or personnel. The alternative to acceptance was nonexistence.

When Greece was created in 1832 the form of government, a monarchy, the monarch (Otho, second son of the king of Bavaria), ministers, army officers, and financial policies were all dictated by the major European states whose military intervention gave Greece life in the first place. When Otho was overthrown in 1863, the major powers appointed his successor.

The Treaty of Berlin of 1878 recognized Serbia, Montenegro, and Romania as independent states, and Bulgaria as a tributary state of the Ottoman Empire, but only after the would-be rulers of these new states had been compelled to accept limitations on their authority regarding commercial arrangements and minorities. Moreover, the lower Danube, which flowed through Romania, was to be controlled by an independent European commission. The first Albanian constitution was drafted not by Albanians, but by representatives of the major European powers in 1914.

During the cold war the Soviet Union dictated the domestic institutional structure and the policies of its east European satellites. Poland, Hungary, Romania, Czechoslovakia, and Bulgaria were not Westphalian states. Their militaries could not operate independently. In some cases their internal security forces reported directly to Moscow. Although their rulers did have some autonomy they could not stray too far from the Kremlin’s preferences, and abandoning Communist regimes was out of the question until the late 1980s.

One of the more enduring examples of imposition under great-power condominium has involved efforts to secure minority rights in eastern and central Europe during the nineteenth and twentieth centuries. All of the states that emerged from the Ottoman and Habsburg empires were compelled to accept provisions for minority protection as a condition of international recognition. This was true for Greece in 1832, and for Serbia, Montenegro, Romania, and Bulgaria at Berlin in 1878. The would-be rulers of the target states did not want to grant minority rights, but they acquiesced to the demands of the rulers of the major European powers because international recognition with minority rights provisions, which might be evaded, was better than no recognition at all.

The would-be leaders of all of the states that were created after the First World War (or were successors to the defeated empires) had to accept extensive provisions for the protection of minorities. As in Greece in 1832,

59 Rice 1984, chapt. 1.
these would-be rulers had limited bargaining leverage. Austria, Hungary, Bulgaria, and Turkey were defeated states, and minority protections were written into their peace treaties. Poland, Czechoslovakia, Yugoslavia, Romania, and Greece were new or enlarged states. They signed minority rights treaties with the Allied and Associated Powers. Albania, Lithuania, Latvia, Estonia, and Iraq made declarations as a result of pressure that was brought upon them when they applied to join the League of Nations. With only a few exceptions, notably Czechoslovakia, Hungary, and the Baltic states, the would-be rulers of these new states were not sympathetic to minority rights. They did not want their constitutional arrangements to be dictated by external powers.60

The United States and especially the major powers of western Europe attempted to secure minority rights in the states that emerged out of Yugoslavia after 1991. Recognition of Slovenia and Croatia by the European Community in December of 1991 was conditioned on protection for minorities, including a guaranteed number of seats in the Croatian Parliament. The 1995 Dayton accords provided for the establishment of a commission for minorities, a majority of whose members were foreign, as well as an ombudsman who was initially to be appointed by the major European states. These were highly coercive if not imposed arrangements that would have been rejected by the states that emerged from the former Yugoslavia had they not been subject to external pressure.

CONCLUSIONS

The term sovereignty has been used in four different ways: domestic sovereignty, interdependence sovereignty, international legal sovereignty, and Westphalian sovereignty. The latter two, and most particularly Westphalian sovereignty, are the subject of this study. Both international legal and Westphalian sovereignty are best conceptualized as examples of organized hypocrisy. Both have clear logics of appropriateness, but these logics are sometimes inconsistent with a logic of consequences. Given the absence of authoritative institutions and power asymmetries, rulers can follow a logic of consequences and reject a logic of appropriateness. Principles have been enduring but violated.

For Westphalian sovereignty the violations have taken place through conventions, contracting, coercion, and imposition. Conventions and contracting are voluntary; rulers have invited violations of the de facto autonomy of their own polities because it leaves them better off than in the status quo ante. Coercion leaves one of the parties worse off; the target must alter its domestic policies or institutions or accept the costs of sanc-

tions. Imposition occurs when the target is so weak that it has no choice but to comply either because the ruler or would-be ruler is faced with military force or because the failure to secure international legal sovereignty, recognition, would threaten the very existence of the state. Coercion and imposition are examples of violations of Westphalian sovereignty through intervention rather than invitation.

For international legal sovereignty violations have primarily been the result of contracting and conventions. Rulers have recognized entities that lacked formal juridical autonomy or, in the case of the Knights of Malta, even territory. Rulers have also refused to recognize governments that have demonstrated domestic sovereignty, and extended recognition to governments that have not exercised effective control over their own territory. These have often been unilateral actions that have not been contingent on the policies of other states.

The logic of appropriateness that is associated with the Westphalian norm of autonomy has mattered in the calculations of rulers, but so have alternatives such as human rights, minority rights, international stability, and fiscal responsibility. Rulers have different constituencies. They respond primarily to domestic supporters who hold different values in different states. The material interests of states often clash. Power is asymmetrical. There is no hierarchical authority. Logics of consequences have trumped Westphalian logics of appropriateness.

The basic rule of international legal sovereignty has been more robust and more widely adhered to. Once rulers have recognition, they hardly ever want to give it up. International legal sovereignty provides an array of benefits, including reducing the transaction costs of entering into agreements with other entities, facilitating participation in international organizations, extending diplomatic immunity, and establishing special legal protections. Because international legal sovereignty is a widely accepted and recognized script, it makes it easier to organize support from internal as well as external sources. Especially in polities with weak domestic sovereignty, international legal sovereignty, international recognition, can provide a signal to constituents that a regime and its rulers are more likely to survive and thereby make it more likely that these constituents would support the regime.

Nevertheless, international legal sovereignty like Westphalian sovereignty is not a Nash equilibrium, nor is it taken for granted. Rulers have had reasons to deviate from the rule and have invented other institutional forms when it has suited their purpose. The British Commonwealth, with its high commissioners rather than ambassadors, was an alternative to international legal sovereignty. Meetings of the major industrialized states include not only the representatives of international legal sovereigns—the presidents, premiers, and prime ministers of this and that country—but
also the commissioner of the European Union. The consequences for Taiwan of losing its international legal sovereignty in the 1970s have been mitigated by the fact that some countries, notably the United States, have invented alternative arrangements that provide the functional equivalent of recognition.

Of all the social environments within which human beings operate, the international system is one of the most complex and weakly institutionalized. It lacks authoritative hierarchies. Rulers are likely to be more responsive to domestic material and ideational incentives than international ones. Norms are sometimes mutually inconsistent. Power is asymmetrical. No rule or set of rules can cover all circumstances. Logics of consequences can be compelling. Organized hypocrisy is the norm.