

Simulating International Society: A Semiotic Reading of International Rules from Premodern Counterfeit to Postmodern Hyperreality

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Table of Contents

Chapter 1: Simulation and its discontents	4
Meaning	8
Perceiving a systemic lack systematically.....	10
Moral consequences	16
Chapter 2: International society: abstraction and experience from counterfeit to hyperreality	28
IR and international society – a hall of mirrors.....	30
The ontology behind the representations	54
Sign language.....	62
International society and the corruption of meaning	71
To recap.....	90
Chapter 3: How to see (through) a simulation.....	93
Epistemological stance, or what counts as success?.....	95
Epistemological tools, or how to find what I'm looking for	102
What I am looking at (I): the rules	118
What I am looking at (II): signs of value (but not \$, €, £, or ¥).....	132
Without further ado... ..	141
Chapter 4: International society as a counterfeit order: the semiotics of pre-modern political theology	144
Congregation before nation, Christendom before international society.....	146
Pre-modern territorial sea: creating nothing out of something.....	168
Trade: the progressive abstraction of subjects trading objects	177
The collapse of the counterfeit.....	186
Chapter 5: The production of international society and the commodification of states	188

Modern sovereignty: commodifying fictions.....	190
The modern territorial sea: operationalizing fictions.....	207
The modern MFN: manufacturing fictions.....	215
Conclusion.....	226
Chapter 6: The interminable simulation of international society.....	227
Sleepwalking towards post-national international society	230
Bounding the sea through boundless regulation.....	248
Simulating fair trade with meticulous obscurity	272
Conclusion.....	290
Chapter 7: Conclusion	292
Apocryphal nostalgia and the good old days	295
Triangulating the real with death and grief	297
Amending omissions and repressions	300
Bibliography.....	304

Chapter 1: Simulation and its discontents

"There once was a reality principle. Then the principle disappeared, and reality, liberated from its principle, runs on through inertia. It develops in an exponential manner, becomes integral reality, which no longer possesses either a principle or an end, but which contents itself with realizing integrally every possibility. It has devoured its own utopia, it operates beyond its own end." (Baudrillard, 2007a, p. 121)

In 2011, *The Economist* printed a light-hearted news article about the spread of non-governmental organizations (NGOs) in the new State of South Sudan. According to the newspaper,

THE emerging new country of South Sudan, which has voted overwhelmingly for secession from the north, has already become a leading nation of "the workshop": not a place where hard work gets done under duress but where the language of aid is taking hold even among the natives. "I feel like a stakeholder now", exclaimed a woman of the Dinka tribe, the region's most prolific. All the favourite words of NGO-speak are now aired in the makeshift corridors and canteens of Juba, the fledgling capital. Top of the list are "empowerment", "capacity-building" and "stakeholder"..."(Anyone here speak NGOish?," 27.1.2011)

Had the Dinka woman's statement been recorded in Brussels or Vancouver, it would have been unremarkable. The context that makes the absurdity of the statement and its newsworthiness clear is that South Sudan is historically and developmentally very remote from the discourses that produced the terms of NGO-speak, with hardly any paved roads, domestic industry, literate citizens or bureaucratic institutions. It is a pre-modern society enamoured of postmodern labels. A stake is a quantity at risk, a wager, something to lose whose value could also be multiplied. The intended comedic irony of the report is that the woman considers herself a stakeholder without realizing that she has no stake; in terms of the meanings she is referencing, she has practically nothing to lose or to gain.

The comedic connotation of the statement, however, comes at a tragic cost. The state of South Sudan emerged from a referendum organized and sanctioned by 'the international community' after two generations of war. Observers, consultants, diplomats, lawyers and technicians came to ensure that South Sudan's initiation into

international society was complete and included all the trappings of statehood. Statehood, however, has not solved much. On the contrary, it has provided still more cleavages according to which people divide land, resources, power and each other. More warfare and strife has followed the birth of the state, but the objects of the conflicts and their victims are more carefully observed, counted and catalogued than at any point in the territory's history, from before its integration as a colonial entity through its independence with Sudan, and then through its independence from Sudan. The misery persists, but South Sudan is present in international society, and international society is present in South Sudan.

Read through the lens of an outsider's irony, South Sudan's integration into international society and the eager popular adoption of the language and meanings of postmodern global politics is comical. Beyond that irony, however, there is also the view from the insider's aspirations of being a stakeholder without a stake and of a territory plagued by fatal turmoil being officially and legally dubbed 'state', which are more tragic than comic and more absurd than ironic. What is so seductive about an ascription so hollow? What is so moving about such a meaningless title?

International society's capacity to move and inspire is not restricted to the bottom of the ladder of political economic development. The European Union is at the other end of this ladder. Not only is Europe far more economically and industrially developed than South Sudan, its political and legal institutions are far more complex. Whereas statehood is a goal for the latter, it is one organizational principle, one locus of rules, among many for the latter. Nonetheless, the intensely and extensively regulated institutional structures of Europe are also a component and expression of international society, and they are no less highly valued than the minimal statehood in South Sudan. Kjaer (2013) sees in the EU 'a perfect example' of how various constitutional orders intermingle and provide for a future oriented 'constitutional consciousness'. Similarly, Bogdandy (2012) sees in the EU a model of how multilevel democracy can be practically realized, how individual citizens' voices can be channelled in law alongside nationally segmented, but democratically legitimated, interests. These scholars might have more sophisticated ideas than the Dinka woman quoted by the Economist, and they may be very remote from her realm of

experience, but they also claim to know what it means to belong to international society semantically and as an emancipatory project.

Although the circumstances of the anonymous Dinka woman and the renowned professional academics are very different, as are the roles and statuses attributed to them in terms of most theories of International Relations, they are united by a common illusion. They all speak in terms of, and address their aspirations to, international society, but this society is unreal in that it does not provide subjects, each of whom is unique in time, space and disposition, with the coordinates to relate to each other as such. Instead, the language of international society sorts subjects into categories, like 'recognized jurist' or 'aid recipient', but even these categories are increasingly devoid of meaning. The reality they describe is very sophisticated, highly complex, and specifiable with a startling degree of detail, but it bears little relation to the world as these people actually experience it and provides few means for them to relate to each other on meaningful terms. The universal language of international society unites and subsumes these disparate people in a common web of meanings, but it simultaneously alienates them from their immediate circumstances and each other because this web cannot actually contain the kind of meanings that matter.

The story here is not strictly about the global South, colonial abuse nor the professional socialization of European jurists. It has little to do with any of the technical considerations in these vignettes, like the role of referenda in the creation of new states, the tarmac requirements of poorly developed landlocked states, or the interaction of constitutional ideas in Europe. The focus of the story is not these characters or their specific deeds, but with the setting that makes it intelligible and the conditions of that intelligibility. That setting is international society, the multiplicity of states that universally structure macro-social interaction and the rules that define and sustain it. The story is about what this society is, what it means, whence it came and what it meant.

More specifically, I will argue that, although international society is usually defined in terms of states and the rules that they observe among themselves, it is reducible to rules alone. This reduction is possible in virtue of the fact that states themselves are

nothing but constellations of rules, and all rules are constitutive. Drawing on a scale of semiotic value developed by Jean Baudrillard, I develop a scale of four levels with which to evaluate the meaningfulness of international society or, rather, of international *societies*. The plural noun indicates that an international society corresponding to each type of value but the first has actually existed. In fact, international society has progressed through them in sequence, and this historical progression corresponds to a degradation of international society's meaning.

It is no surprise that the first level in the scale of semiotic value, symbolic exchange value, does not correspond to any international society because it relates to the unique and ineffable meaning contained in symbols of the most valuable interpersonal relationships. The second level, use value, is the first that one can actually observe in studying international society historically, and it applies to signs and images that represent a single, real, unmistakable thing. The rules constituting international society were possessed of use value from the beginning of my historical account in about the 11th century until the wars of religion in the 16th-17th centuries. The third level, exchange value, applies to signs that are copies of copies, where each instance is just a token without any identifiable original, but they still function as a currency of status. Meaning in a system dominated by exchange value is considerably more diffuse and amorphous than in one under the first two types of value. It was the principal form of value in international society from the wars of religion, which forged 'modern' states, as they are conventionally understood, until the thirty years' crisis of the 20th century. The final level, sign value, applies to signs whose value is only substantiated by other signs, leading to an unstoppable proliferation of signs, each propping up others and asymptotically reducing the meaning of any sign and of the system they compose to infinitesimally small quantities. Sign value has dominated international society for the last three generations, during which it has, like many other features of late-modern mass society, become meaningless.

Meaning

International society is a relatively familiar concept in International Relations. Indeed, as I will argue in the following chapter, it is the discipline's principal object of study. Meaning, however, attracts less direct attention in the social sciences generally and IR in particular. This is odd for two reasons. First, IR has recently examined its philosophical groundings much more carefully than was the case in the early and mid-twentieth century, when it began as an identifiable scholarly discipline and obtained some measure of respectability. The last two and a half decades, more or less, have brought a much more careful, thorough and sometimes neurotic reflection on the epistemological status of the knowledge the discipline produces and its status as a 'science'. One could take this as a discourse on the meaning of the discipline's output, how the products of IR research should be evaluated and integrated into broader discourses and practices, according to which criteria and on what terms. Second, there has also been much more direct engagement with the topic of IR research as a normative practice, one that has consequences in and for the world and that its practitioners ignore at everyone's peril. Indeed, the recent resurgence of international political theory goes beyond this, actively engaging with these normative questions and proposing deliberate interventions on more or less philosophical grounds. One could take this as inquiry into the metaphysical or existential value of certain objects International Relations treats, like economic, political and legal systems, in light of the value of others, like individual freedom, social justice or solidarist sentiments.

It should also be noted that, although the question of the meaning *of* international society, has been largely neglected, meaning *in* international society has received considerable attention. Constructivist scholarship as a general class, which has become a very broad and broadly recognized theoretical orientation, often frames its inquiries in terms of how social interaction produces, reproduces and changes meanings. Despite differences in focus, constructivists generally treat meaning as part of representing features of the world in abstract terms such that ideas about it can be formulated, combined and communicated. The focus can range from the production of meanings in discourse (Holzscheiter, 2013; Schmidt, 2010), analysing

the linguistic and literary features of communication in international relations (Karin Fierke, 1997; Mutimer, 1997), and how individual or corporate subjects process meaning in light of the ideal typical symbols and narratives of psychoanalysis (Epstein, 2011; Steele, 2007) among others. However, these constructivist approaches generally share a semantic concept of meaning in that they tend to ask after the denotation and connotation of representations. Further, these instances of semantic meaning are treated within the more or less clearly defined category of activity that goes under the name 'international relations'.

Meaning can also be considered more broadly though. First, the meaning of international society, which is the setting in which the semantic meanings of constructivism are intelligible, can be considered as a whole. What is the meaning of those activities and how are they to be understood and integrated into a broader realm of experience? This perspective, however, immediately begs the question as to the context in which this broader meaning is itself intelligible. If meaning is about more than semantic ascriptions in the context of international activity, what kind of meaning is that, and what then is the level of analysis that will give that meaning meaning? This would, then, be the second extension of 'meaning'.

Perceiving meaning and, what is more to the point, meaninglessness in a world of commonplaces, where reproduction can proceed unreflectively with the reproducers sure of themselves and their common, but accidental, project, is difficult. The first requirement is a theory of representation that can bring meaning and meaninglessness into a single scheme. Theories of meaning abound, but theorizing meaninglessness is much more difficult for the reason that all theories of absence and lack are difficult: absence presumes a presence, if not many presences. The puzzle of the ontology of holes might help to illustrate. A hole is only recognizable as an absence of a surrounding substance that could or ought to be present but lacks. A hole is clearly a thing, and holes are generally immediately recognizable. But it is not the hole as thing that is recognized; rather, one recognizes the lack, and that lack can be instantiated in indefinitely many ways while remaining a lack of a recognizably common type. Recognizing a hole entails seeing nothing as a clear instance of not being any number of different things. Just as seeing a hole requires a theory that

brings indefinitely many things onto a single plane with a single type of lack, perceiving meaninglessness requires a theory that can accommodate different kinds of meaning and relates them to a common kind of lack.

Theorizing meaninglessness in highly signified and representational aspects of social life, like international society, is even more difficult because fixing and communicating meaning is ostensibly the point of representational systems. Saying that international society lacks meaning is not just to identify a lack in surrounding substance, but more radically to claim that the substance is lacking, which makes its recognition that much more complicated, especially when the meaning in question is more existential than semantic.

Perceiving a systemic lack systematically

In order to perceive the lack in international society, the first step is, naturally, to describe what international society is and to explain why international society is the substance in question that lacks. In other words, international society has to first appear as a context of meaning to make its meaninglessness visible; what is the substance perforated by the hole? Doing this is the first objective of the next chapter. I argue that the concept of international society is what International Relations as a discipline is about across its various inflections. International society is the representation of the macro-social world as a collection of states as the highest organizational parts and the rules that maintain this organization of organizations. In effect, I argue that international society is reducible to rules and that these rules concatenate into an ecology of rules. The discipline of International Relations, even where the efficacy or even the existence of rules is in doubt, is about articulating what the rules of international society are and how they combine to yield the whole.

Examining rules as rules is insufficient to the task of analysing the meaning of international society because of the irreducibility of international society to any particular rule. This necessitates a different theoretical conceptualization that can treat them all as partial aspects of a larger whole, while preserving that whole as the primary object of analysis. To this end, I present Saussure's semiology as an appropriate analogue to conceptualize how rules depend on each other for their

intelligibility and interrelate such that the entire system they compose becomes the basic unit of analysis. This involves considering rules as signs that consist of signifiers and signifieds and combine to yield more complex signs and systems of signs. However, while Saussure's theory provides an ontological structure that closely resembles the rule structure of international society, it also treats meaning at a more semantic than existential level.

To be able to treat the meaning of international society rather than just meaning *in* international society, I apply Baudrillard's theory of value. Although hardly used in IR and much maligned for his impenetrable style and grandiose turns of phrase, Baudrillard's theory allows for both the treatment of meaning at the requisite level of abstraction and is compatible with Saussure's systemic view of semiotics. It thus allows the analysis to penetrate deeper than semantic meaning of individual rules into the existential meaning of international society as a system of rules. This theory arranges four types of value, the first of which, symbolic exchange value, is loosely derived from Mauss's (1966) morality of gift giving, the next two, use value and exchange value, are largely borrowed from Marx (1993 [1859]), and the fourth, sign value, is Baudrillard's own creation. In brief, symbolic exchange value refers to a system of communication where the value inheres in the social relationship reinforced by the token exchanged, and the token is merely a symbol of that relationship, whose value does not depend on the nature of the object or the exchange itself (Baudrillard, Lovitt, & Klopsch, 1976). In semiotic terms, use value corresponds to a counterfeit system of social relations, which means that there is an original of which all tokens are counterfeit. Despite the potential for replication, the original gives the copies and the system they compose the capacity to contain meaning. A system based on exchange value, by contrast, describes the situation where signs are commodified in that their value is conventional and ideological status relations maintain the relative value of signs to each other. There is no original token, so all tokens are interchangeable copies of each other. Reproduction corrodes the identity of signs, and the system becomes less able to contain meaning. Sign value, finally, corresponds to a system of hyperreal simulation, where the signs have become completely divorced from a particular relationship and are thus emancipated from identity and meaning. However, much like artificial sweeteners inducing

hunger, the emptiness of hyperreal signs leads counter-intuitively to a profusion of signs to recapture the lost meaning. The profuse production of signs cannot re-establish what it has degraded, though, so there is a vicious cycle of the degradation of meaning and the production of further attempts to signify.

Beyond the merits of Baudrillard's theory as a means to theorize meaning as abstractly as it is conceptualized here and its potential to fit the structure of international society as a system of rules, it presents a further benefit as well as two great challenges. The additional benefit is that it can also be applied to 'the international community', which I argue below is the folk concept that correlates with the academic concept of international society. Thus, the analysis is applicable to international society as it is broadly understood, not only to its various arcane and scholarly formalizations. In terms of challenges, the first is that Baudrillard never intended his theory to serve as a means to analyse international society. Instead, it was developed to theorize the glut of meaningless modes of signification in an aspirational mass society driven by consumerism. In consequence, I devote considerable effort in chapter two to adapt Baudrillard's theory to the object of international society. The second challenge is that, while the different types of value allow for comparison as a means to discern and distinguish them, there is only one international society available. The first recourse is, then, a historical comparison to juxtapose current international society with its past selves.

The historical approach presents benefits and challenges of its own. On the one hand, the historical analysis provides enough contrasting material that different systems become apparent. Not only is there difference, it also reveals a progressive degradation in international society's meaning, which brings a systematicity to the development of international society through time. The historical approach allows for analysis of continuity and change. However, it is also problematic. One problem is that, because the theory relies so heavily on notions of signification and representation, it becomes necessary to distinguish history as a procession of phenomena bound in time and narrative as the representation of selected phenomena in a social context possessed of evaluative judgments. Further, the

attempt to analyse roughly a millennium of the history of international society raises the question of what to examine and how to sort the material.

Working through these methodological problems is the substance of chapter three. There I introduce historical institutionalism as a means of conceptualizing change and continuity, narrative as a means of conceptualizing how contemporaries locate themselves in historical processes by representing elements of the past and future in terms of progress and corruption and relating these to their respective presents, and genealogy as a means of choosing individual data to include. To add continuity and limit the vast range of material to a more manageable size, I also restrict the analysis to three conventional rules of international society. The first is nationality as the basis of sovereign statehood, the second is the breadth of the territorial sea and the third is the most-favoured nation (MFN) rule of international trade law. Conventions in general are appropriate objects of analysis because their form is arbitrary, which conforms to the arbitrary relation of signifiers to signs in Saussure's semiotics, and because they reflect the state of a society more than its aspirations, which would be the case with teleological norms. These three conventions in particular are useful because they are so different in terms of subject matter. This dissimilarity allows for a maximum of extrapolation to international society as a whole from a limited amount of empirical material.

The empirical analysis begins in chapter four with the political theology of pre-modernity, in which Christendom, as the divinely sanctioned social order, corresponds to a counterfeit order based on copying the original kingdom of heaven. This order is discernible already in Augustine's *City of God*, and the historical narrative begins in earnest around the turn of the second millennium. Because nationality and statehood only acquired symbolic efficiency in modernity, and the data relating to the first case revolves around the articulation of authority in the empire, and how it was variously claimed to derive from God through the pope, the emperor or through the congregation of Christendom itself. The chapter follows this case until the religious wars of the sixteenth and early seventeenth centuries tore the unitary order of Christendom apart. The counterfeit of reproducing the divine order on Earth was also reflected in the case of the territorial sea. Here the question was to

what extent God had created the oceans as an indivisible mass, which would resist enclosure and correspond to a regime of *res communis*, or whether perhaps the dispensation of divinely ordained sovereignty did not also imply a right to claim and administer portions of the sea as it did on land, implying a regime of *res nullius*. This debate proceeded from Marcianus through various papal and royal interventions until it reached an apogee with a diametric disagreement between Hugo Grotius, who initially advocated a strong regime of *res communis* and *mare liberum*, and John Selden, who argued for a *res nullius* and *mare clausum* regime. This debate was occurring simultaneously with the religious wars that punctuated the first case. Finally, the chapter follows the development of the MFN from its first analogue in 1055, when it was a means of re-establishing moral and political hierarchy after a conflict and to reinforce Christian supremacy over heathen Others, to its reformulations at the dawn of modernity, when it became a more profane means of generalizing particular forms of trade relations.

Chapter five treats the production system, in which international society became a reproduction of reproductions corresponding to exchange value. Here statehood and nationality rise as mutually referential signs, with statehood signifying the political supremacy and autonomy of a nation and the nation signifying the irreducible social entity that was to provide the occasion for a system of mutually exclusive supremacies. Historically, it begins with Vattel's formulation of a system of atomic states driven by interest and the standardization of cultural forms, like language, that would provide the signified that nationality was to represent. It progresses through the universalization of this logic and the factual limitation of its application in the differential application of international legal principles in colonial contexts. Thus, the principles on which the system rested were already bleeding meaning. The case of the territorial sea begins with Grotius's later formulation of an approximate principle of effective occupation to establish maritime sovereignty, which through a century of reproduction became the so-called 'cannon-shot rule'. As I show, however, the cannon-shot rule was informed by Vattelian principles of interest and exclusivity that had little to do with actual cannons, which were far from being able to fire the 3 nautical miles denoted by the rule at the beginning of the production period and overshot this range by a factor of eight by the end of it. The MFN's development was

equally peculiar and can best be explained by the grammar of the production system. At the beginning of the production period the first *pro futuro* formulation of the MFN appeared, initiating a generalized system of networked relations instead of particular and backward looking bi- or trilateral relations. Towards the middle of the production period, a new form of the clause, the conditional formulation, arose, and it spread throughout international society until it was contained in the majority of trade relations within a few decades. This domination lasted another few decades before the unconditional formulation returned as the most common towards the end of the nineteenth century, showing the malleability of the signs and the loose connection between signification and meaning as the period progressed. And just as the counterfeit period ended with the brutality of the religious wars, the horrors of 'the thirty years crisis' ended the production period and the era of exchange value.

Finally, the simulation period, when international society becomes hyperreal, begins with the thirty years crisis and persists until the present. It is generally characterized by a surfeit of signification that progressively excludes principled meaning, while the deep and vast articulation of rules simultaneously contributes to an image of international society that seems more real than the world to which it ostensibly applies. To make this apparent in the first case, I trace the rise and frenetic but diverse applications of the principle of self-determination, which arose as a means to reshape Europe after the First World War, and the Montevideo criteria of statehood. These progressed from ad hoc modifications of principle to deal with particular questions during the thirty years crisis and extended through decolonization until becoming currently refracted in the schizophrenic treatment of Palestine and various secessionist movements and proto-states. Similarly, the territorial sea developed from the modern formulation of the three-mile limit to a diverse range of claims around the world. Attempts to harmonize these through the United Nations Convention on the Law of the Sea led to a less principled regime of arcane rules, in which a nominally *res communis* regime in fact excludes extensive segments of humanity from the marine resources that the rules were ostensibly devised to share. Finally, the MFN proceeds from a generalized system of trade relations based on a principle of future-oriented diffuse reciprocity, which served to ground the ideas of embedded liberalism, into a standard clause in frightfully impenetrable instruments

of trade and investment regulation that serve more to disorient and disembody than to regulate or signify. The excess of signification corrodes the potential for meaning, but the impression of reality is all the stronger for it. International society surpasses the real and becomes a hyperreal, but symbolically efficient, simulation of itself.

Moral consequences

While the theory and its empirical illustration require further development in the following chapters, an explanation of the normative import of the argument is in order now to underscore the relevance of the thesis and to justify the level of its abstraction. The argument so far has included the following steps: 1) the field of IR reproduces a concept of international society and a corresponding lay concept of international community; 2) both of these refer to a system of mental representations in the form of rules; 4) this system has a structure susceptible to semiotic analysis; 5) Baudrillard provides a taxonomy of semiotic systems based on the kind of meaning they contain, and international society has achieved the form of hyperreality, which implies that it is devoid of meaning. I have implied, at least obliquely, that this state of affairs is to be deplored. This is perhaps surprising considering that the counterfeit systems, which contain more meaning, are associated with feudal social arrangements, which sounds unconscionably reactionary. Therefore, these claims require further substantiation. After all, if signs' capacity to influence behaviour were the only concern, it could be argued that hunger and cold weather influence behaviour, and it is not at all clear that they 'mean' anything, so they do not imply that we should organize the world or our modes of perceiving it differently.

In short, the hyperreality of international society is bad for three reasons. It alienates subjects in the sense of divorcing them from meaning. It is totalizing in that it excludes alternative, and probably better, ways of representing the social world. And its totalizing nature congeals existing power relations that, because of the alienation from meaning, are arbitrary in the first place.

Alienation is perhaps most famously associated with Marx, and though his concept is often reduced to depictions of the subject-as-worker, which would probably convene well to Baudrillard's predilections, Marx's concept extends well beyond the

field of productive labour. Although variants of the concept relate to theological, political, psychological, and economic relations, the basic idea that all share is alienation of people from each other (Wendling, 2009).¹ Given Baudrillard's grounding of meaning in profound relationships symbolized only approximately by symbolic exchange value, the progression of international society towards hyperreality should clearly aggravate this type of alienation.

As the social reality defined by the signs of international society become more hyperreal, alienation worsens because of the dissipation of identity. By 'identity', I mean simply meaningful characteristics that allow one thing to be recognized as itself and not be mistaken for something else or to be overlooked, and 'meaningful' is measured on the scale of value described above. Because identity implies distinctness, and signs also require distinctness from other signs in order to contain meaning, the search for identity can also be understood as the effort to constitute oneself as a sign that is comprehensible and unique in the prevailing semiotic system. But as types of collective identity proliferate, the signs denoting them must become ever more finely distinguished from each other, and the difference between them necessarily dissolves. Collective identity becomes increasingly commodified in the sense that the difference between the signs is assessed in terms of status rather than content (Baudrillard et al., 1976). That is, once all collectivities have the same set of signs to denote their identities, the comparison will shift to the question of whose sign is more prestigious. In semiotic terms, everyone is equal and possessed of the same repertoire of signification, but because of this *lack* of distinction, everyone strives all the more to be *primes inter pares* (Bauman, 1968a). In terms of states, this occurs at the level of constitutive rules and the authority required to change them as well as in more prosaic signs, like flags and national armies. Flags are to be respected, even by enemies from whom one should not expect respect, and national armies are displayed to demonstrate discipline and prowess, even when their use in

¹ Whereas Marx generally analyzed alienation from an objective perspective of how the subject stands in relation to other subjects and social kinds, Seeman approached the concept from a behavioural perspective, categorizing types of alienation based on what the subject believes and how those beliefs would influence her behaviour (Seeman, 1959). Because the exercise here is more to analyse how the alienation induced by a hyperreal international society matters in ethical terms rather than to predict the resulting behaviour, Marx's general concept will suffice.

combat is unthinkable. This struggle for supremacy suggests that the signs preserve their symbolic efficiency despite having lost their meaningful content, and the fight over such trivialities is the first deleterious consequence of the alienation of hyperreality.

Not only does alienation increase as a function of dissipating identity, it also corrodes agency, which is reduced to the futile hyperactivity of trying to achieve meaningful distinction. Since meaning in a hyperreal system has already decomposed, but there is no recourse to meaningful symbols outside the system, striving for it can only be Sisyphean (Baudrillard, 1981).² This hopeless quest often plays out in obsessions about tradition and a fixation on glorified ancestors (Baudrillard, 1993; U. Eco, 1986). One can observe this in international society in the fetish for traditional symbols that would allow current state exponents to access an idealized past, to reference concretely a time when those symbols might have meant something (C. Weber, 1995). For example, Greece and the 'Former Yugoslav Republic of Macedonia' fight over the figure of Alexander the Great and derivative signs, like the name 'Macedonia', referring both to a region of Greece and the state of FYROM.³ However, it is clear that the deeds of Alexander, like conquering the better part of the world he knew, have no analogue in the world we know now. Instead of defining themselves in meaningful terms, the protagonists of this struggle suck the symbol of the past into the hyperreality of the present, and because these symbols can only be interpreted in light of the current simulation system, the effect is to dispossess them

² König has found a parallel to the Sisyphean dynamic of striving for identification and authenticity in a meaningless world in the schizophrenia demanded by authoritarian socialist regimes of their citizens, which he calls the logic of the lesser evil: "Through the logic of the lesser evil, the entire society is brought into the system of lies. Reality becomes fiction, and fictions become indistinguishable from reality. The result is an untold loss of reality in which all lose orientation" (author's translation 2013, p. 224).

³ I can confirm this from personal experience. I have worked to help manage the annual general meeting of a particular international financial organization on several occasions. At these meetings there are always pre-printed signs that contain the corporate branding of the organization as well as the names and affiliations of the participants in each meeting room. There was always a tripartite game of cat-and-mouse consisting of FYROM delegates who would circulate before the meetings and replace the branded signs with their own reading simply 'Macedonia', Greek delegates who were checking the signs for compliance with rules of protocol agreed to in advance and hoping to find excuses to complain and be offended, and our conference ushers who were trying to fix the sabotaged signage before it could cause offence.

of meaning rather than to provide grounds for meaningful identification in the present.⁴

The campaign for meaningful identification in the past can reach touchingly pathetic proportions. Just as developing countries come within striking distance of the technology that signifies modernity, like broadband internet access and the socio-economic transformations it purportedly brings, developed countries develop a yen for the low-tech signs of hypermodernity like wind and water mills and holistic agriculture and manias for their pre-Napoleonic constitutions.⁵ Each ambition entails a flurry of activity, but none of this activity tells the actors who they are or how their activity helps anyone. By the time the ambitions are translated into policies and the policies into programmes for individuals to follow, the only way of making the system intelligible is with reference to a contrived narrative of national prosperity and growth, with the nation and growth defined with malleable and ephemeral signs.

In hyperreality subjects are related to the signs without being related to other subjects, but the signs are empty. With the profusion of signs and the dissolution of meaning, agency consists of an endless search for sufficient signification to bolster the apocryphal foundations of identity. In other words, agency is reduced to consumption of signs, and because the signs are empty of meaning, they cannot ever satisfy the will for a distinct identity. Since the acquisitive race for distinction cannot succeed, the will for distinctness through consumption becomes a will to superiority through conspicuous consumption, because if categorical difference is impossible, the alternative is to seek approximations of meaning in status and envy. If symbolic exchange value is the proper indicator of meaningful relations between subjects and,

⁴ This does not imply that every act and relationship subjects engage in becomes meaningless, only those that relate to the signs of states and international society. A soldier, diplomat or armchair nationalist might engage in several meaningful activities that yield social relationships with higher value, but no hyperreal signs can provide for meaningful identification, so agency directed at that pursuit is corroded.

⁵ The obvious counterargument is that different countries have different needs and their different policies serve different functions, but this would be to fall back into the ideology of functionalism. If the wind and water mills are to reduce carbon emissions, one can just as easily ask about the range of means available to achieve that end and why these particular means are preferred. If the yearning for technology is supposed to raise standards of living, one can justifiably ask if people are happier or more fulfilled as a result. The question is not the needs these policies are supposed to satisfy but the uses they serve in fact.

concomitantly, their identities, it is hard to imagine a more alienating circumstance than a system that reduces their agency to the competitive pursuit of meaningless signifiers of sign value.

Because the focus here is on rules as signs, the typical Kantian counterargument would be that rules can promote freedom and community by means of the stable circumstances and common grounds for identification they provide. Consideration of the rules that *emerge from* signs, however, reveals the limits of this position. Rules also enable violence (Cover, 1986; Foucault, 1977a), and some signs denote circumstances in which violence is virtually required in a particular grammar. For example, designating a certain building or individual to be an extension of a state, which is a signifier of some national community's political self-image, perhaps, will enable, if not require, different forms of reaction, and many representations in this grammar will channel the interpretation of whatever reaction into signs like 'capitulation', 'appeasement', 'retaliation' or 'reprisal'. So the commodious living and community promised by Kantian ideas about social rules must be qualified by the violence these rules enable or compel. To the extent that this potential for violence and animosity is the product of a semiotic system, it is a further instance of that system's alienation. This alienation is only compounded by hyperreality of the signs, because they do not even carry the compensation of meaning.

The agency-corroding alienation would not be so bad if there were clear exit options, but the hyperreality of this simulated system is totalizing and excludes competition. Hyperreality's totalizing effects are a logical consequence of its defining characteristics. First, as more signs lose distinction and are increasingly exchanged for other signs, all signs in the same code, even those that might have meaningful signifieds, lose credibility and distinctness. In other words, meaninglessness is contagious at the level of signs. There is no defence against a sign being appropriated for the purposes of simulation, and there also seems to be no means to reverse a sign's appropriation. For example, as soon as one state opportunistically annexes territory under the pretence of historical attachment, all other states must develop historical narratives that justify their territorial presences historically. Indeed, this might even entail inventing a narrative that conforms to the current simulation to

substitute for the original narrative, which might have actually contained more meaning. For example, the most compelling reason for a Jewish state in the Levant, at least in terms of meaning, is a covenant with God described in the Old Testament, but rather than defend Israel's status on the basis of this absolute point of moral reference, the justification usually refers instead to *less* meaningful historical documents, like the Balfour Declaration, expired terms of a UN mandate, and amorphous 'road maps'. Sign value is contagious in a sense and corrupts the entire code. In the words of Hedley Bull, "one reason for the vitality of the states system is the tyranny of the concepts and normative principles associated with it" (Bull, 2002 [1977], p. 265).

The example of Israel also demonstrates the equivocal ontologies required to question the code. Even in proposing a revision to the simulation or a reversion to meaning, one has to address the prevailing code as if it were real. That is, one must articulate arguments and reasons that contradict the logic of the hyperreal order in the terms of that order and under the assumption that the addressees sincerely believe it (Baudrillard, 1998b). So even Jews who believe in a divine right to particular territory must present their claim to people and institutions well below the God who is the occasion for their claim, and even if they suspect their addressees to have superficial, hyperreal commitments to the prevailing rules, they must articulate their claims in terms of those rules. They must reproduce the existing simulation even if they recognize its hyperreality. There is no mode in international society for processing claims made outside of its own semiotics.

Combining the virulent corruption of meaning once simulation begins and the ontological schizophrenia required of those who resist it yields a third indicator of its totalizing tendencies: the supersession of rectitude for convention. Whereas a meaningful system would allow articulation of right and wrong and provide a fixed framework for assessing good by a transcendent, or at least permanent, standard external to the system of signification, hyperreal systems only allow for the prevailing opinion to determine what is good or admissible (Baudrillard, 1993). Although this might sound the same as the constructivist observation that norms are contingent, the fact that the signs fail to obligate makes it a more radical claim,

almost that norms are not normative. Rules retain the ability to compel, but because they are so detached from meaning or fixed referents, there is very little substance to them beyond compulsion. Compulsion might be excusable were it in the service of a fixed, external, obligatory source of meaning, but that is precisely what the state of hyperreality removes. When finality is absent from ethics, there is only the tyranny of normality.

Applied to individuals, the tyranny of a transient normality means that subjects will increasingly have to define themselves in light of prevailing structures and institutions (Baudrillard, 1985). The subject in the obligatory counterfeit system may have been condemned to life in whatever caste she was born into, but the subject in the current hyperreality of international society is subject to whatever signs are projected onto her. In order for subjects to be an accommodating projection surface, they too must be detached from a fixed symbol (Baudrillard, 1993). Whereas the early modern subject was possessed of a divine essence, Descartes and Hobbes presented a more neutral, mechanistic notion of subjectivity in which subjects are adaptable and can assume different *functions* in different contexts. The divine essence seeking salvation through righteousness yielded to a functional unit that achieves social acceptance, or perhaps just acquiescence, through operational performance. Avoiding the sanctions attached to violating the variable code becomes the goal, and the functional operations prescribed by the conventional ideology become the means.

Whereas Baudrillard made capital responsible for the subsumption of the individual to the insubstantial sign, this seems too easy. The hyperreality of the code applies to all classes; there is no special reserve of meaningful signs reserved for wealthy or powerful. Because of the status attached to signs of wealth, it might help to navigate in the code more easily, to acquire immunities from certain consequences or to induce a self-reinforcing cycle of signification and status. But there is no alternate code available to any class, and even benefits exchanged in the current constellation of signs are subject to reversal when the code shifts, which it is likely to do without obligatory content. The tycoon endowed with national pride yesterday can easily become the oligarch of today and the exiled pariah tomorrow while conducting the same activities described with the same signs.

Despite the totalizing tendencies of the hyperreal code and its indifference towards individual subjects, there can be and are attempts to change it. Indeed, the discourse treating human rights, which has increasingly managed to penetrate the discourse of *international* society, can be interpreted as an attempt to ground the international society code in something meaningful and external to itself. But in fact, even the conceptions of subjects in the human rights discourse tend to become appropriated by the hyperreal code. Individuals can have no inherent, symbolic status in international society; they must be presented as signs that are subject to exchange with the existing signs. The transcendent value of any given life is reduced to the sign of 'combatant', lawful or not, and 'non-combatant' or 'national citizen'/'stateless person'. The grammar of the code has changed such that transcendent values are no longer interpretable, and this code resists change by transforming the attempts to change it into its own semiotic logic.

A revolution in international society seems impossible. On the topic of revolution in a simulation, Baudrillard offers a couple of suggestions, which all seem unlikely or horrific. The first is that, in offering a meaningless life, hyperreality in fact provides for just a slow death, so a violent death could wrench the symbolic real back from the simulated hyperreal (Baudrillard, 1993). However, violent death can also be absorbed into the code. Whatever one thinks of Guevara or self-immolating monks in Asia in ideological terms, it is hard to deny that they have served mostly as images to be reproduced rather than instruments of change. A code of fluid signs can take a crucifixion and reduce it to a motif for a t-shirt. The second suggestion is to fight the code with its own signs to erect a new metaphysical absolute (Baudrillard, 1993, p. 80). Baudrillard's example is the use of graffiti to sabotage the simulated reality depicted in commercial advertisements. But the recent fame of the cosmopolitan and anti-consumerist graffiti artist, Banksy, is instructive. Although his art and slogans, such as 'The lifestyle you have ordered is currently out of stock', are rabidly against consumerism, they are readily found on mass-produced t-shirts and worn in combination with clearly branded accessories. It would appear that no sign can escape appropriation into hyperreality once established. There is only a slight delay between the appearance of a revolutionary sign and its appropriation, when the sign is new and unfamiliar enough to resist effortless exchange with other signs. But by

the time it is widely recognizable, it will have been subsumed: "...in the end the Revolution signifies only this: that it has already taken place and that it had a meaning just before, one day before, but not anymore now. When it comes, it is to hide the fact that it is no longer meaningful" (Baudrillard, 2007b, p. 58).

The impossibility of revolution directly implies the third ethically relevant characteristic of a hyperreal code to be considered here, namely how it congeals the prevailing power relations. When conventionality replaces rectitude and subjects are identified by whatever transient signs are projected onto them, freedom comes to mean the freedom to conform to the prevailing mode of social organization (Baudrillard, 1998b). And to the extent that norms are 'collective expectations of behaviour for a given identity' (Jepperson, Wendt, & Katzenstein, 1996, p. 54), and identity is the product of the projection of inconstant signifiers onto subjects in a totalizing code, subjects' thinkable and legitimate ends derive from their externally-determined identities. As a result, signs continue to provoke affect, but the response is more Pavlovian than reflective. Normative innovation, then, cannot serve to emancipate as much as it will reproduce the conditions of who gets to say and want what under what circumstances (Baudrillard, 1981).

The transience of standards of rectitude lends hyperreality a Kafkaesque feel, and this is appropriate. If there is no external source of rectitude that anchors the signs more or less in place, then the purpose of society can easily shift from security to efficiency to distribution to democracy and back or forth, and this reassigns the value of various actions and subjects pursuing those action within it. Being good is for the weak; being definitive is for the powerful (Laclau, 1996). And because the exertion of power requires only appearance and no force, it becomes much easier to disavow power and attribute its effects to other conditions and to the demands of the present moment (Baudrillard, 2007b). Whereas a fixed, symbolic source of power endowed with obligations and responsibility would be susceptible to resistance and defeat, the ephemeral power of appearances and detached signs offers no line of attack. It is not even subject to internal contradictions, because the lack of fixed meaning precludes the possibility of a meaningful contradiction. As long as the code is detached from real meaning, it will shift around power rather than power having to shift around it.

The cloak that hyperreality provides to power is very abstract, so some examples might help to clarify it. Sovereignty is instructive. If sovereignty is a norm rather than a description of a status obtained by assertion, it depends on recognition.⁶ And who is competent to recognize and bestow sovereignty but those who already carry that signifier? Though it would be a rare case indeed, voluntarily relinquishing sovereign status is seemingly impossible. One could not revoke others' recognition, and even if they did so voluntarily, it is unclear how the resulting hole in the code - and map - would be filled if not by another comparable entity. There is enough variety in signifieds under the sign of sovereignty that the category is far from clearly and logically defined, and there is plenty of room for doubt as to why it applies in some cases and not others. However, in virtually evolutionary fashion, the code will allow only such variation as will provide for its reproduction, which is analogous to the principle of consummativity in Baudrillard's political economy (Baudrillard, 1981). National societies must reproduce themselves as state-bearing collectivities, and individuals must reproduce themselves, and others, as citizens, or nation- and state-bearing subjects. In this sense, people and groups of people are assigned identities, i.e. signs, whose value is based on states and is only of use in a system of states, and which they can hardly relinquish.

Even within the set of established states what counts as potency for states tends to be determined a posteriori, and it is constantly shifting. Atomic weapons are an apt example. Initially they were a sign of extreme potency, of having achieved the pinnacle of sovereignty in symbolic as well as assertive terms. Nuclear weapons powers displayed and tested the weapons ostentatiously in parades, with extravagantly expansive testing grounds, and even with warning videos. These states established the weapons as aspirational signs of statehood, and this aspirational status was finally cemented with a taboo against their further acquisition in the Non-Proliferation Treaty. Along with the Comprehensive Test Ban Treaty, which prevents the legitimate display of these status symbols, this taboo has rendered the weapons themselves much more effective as signs than as weapons.

⁶ This is consistent with the constructivist theory of sovereignty, but it is at odds with the declaratory theory, under which states can exist in the absence of recognition (Brownlie, 2003). But the fact that it is possible to argue over what a state is indicates that the meaning of this signifier is unclear and susceptible to exactly the kind of criticism I am making by default.

States must display their statehood and potency by positioning themselves relative to these signs rather than using the weapons as objects. Now states that seek to acquire them are seen as somehow defective, and those that actually do are pariahs. Fully competent statehood requires abhorrence of these objects, but only those that have them invisibly and treat them as necessary evils, the burdens of responsibility, are able to keep them legitimately. The abhorrence of invisible weapons that nobody is supposed to want has replaced the possession of actual weapons as the sign of status, but the qualities of invisibility and abhorrence ensure that no state can achieve the fully potent status without first passing through moral exile, and even then full status is unlikely.⁷ In Baudrillard's words, "Only the privileged classes have the right to the reality of models. The others will have the right to them when these models have already changed" (Baudrillard, 1981, p. 52).

Although the ethical program in this book consists more of disabusing people of certain illusions rather than proposing a substantive alternative, a few caveats are in order about what I am *not* suggesting. Considering my apparent praise of feudal counterfeit system over the variety of normative systems available in current international society and the potentially fascist implications of lionizing external and transcendental sources of value over contingent and variable systems of value, however, some indication of what is conscionable and what is abominable is in order.

First, a semiotic system that triangulates meaning relative to some fixed, external source does not necessarily imply feudalism or a caste system. Those indeed will be the result when subjects are organized hierarchically, and the hierarchical status is hereditary. But this is one particular configuration among many possible configurations. An egalitarian configuration with all subjects relating at equal remove from some central sign is also thinkable. There is also nothing prohibiting a hierarchical system with *fixed* rules for transition between roles. The historical development described below features a feudal counterfeit system, but that is a

⁷ None of this is meant to imply that atomic weapons are good or to encourage their acquisition. Rather, this is just an example of how the standards of statehood and semiotics of international society entrench a self-perpetuating system of power differentials that need not even depend on deliberate acts of agency.

historical manifestation rather than a necessary consequence of semiotics based on use value.

The meaningful end of the spectrum might also seem drenched in quasi-theological preaching. What could be outside a mundane, human-made system of signification if not God, or something similar? That is a good question. Again, historically speaking, as will be described in chapter 4, God was indeed the external, fixed anchoring sign, so it is the most obvious solution, if not the only possible one. Others are thinkable. For example, a system that recognized ecological processes as being external to the system of signification and providing a point to which all subjects could relate equally is one. Another might be if there were some teleological goal that society existed to achieve and with all subjects part of this project. However, the inescapability of the current system seems to overrule any such alternatives. Just because they are thinkable does not imply that they are practically realizable from a starting point of hyperreality.

Finally, there is the consideration of how universal and totalizing any such alternative itself would have to be. This also requires some imagination. First, a strong commitment to a particular and meaningful semiotic system does not imply a commitment to proselytization, and even a commitment to proselytization does not imply a commitment to coercion. And although it sounds terribly distant from lived experience, it is possible for societies to be self-contained, each with a semiotic system of its own, and there seems to be almost no lower limit to the size of a society sharing a system. Even though this might sound wildly fantastic, most of human history seems to have progressed on roughly these terms. Indeed, when one considers the range of possible variation, the air of tyranny shifts away from the theory of meaning presented here and back to the singular, totalizing nomos of international society.

Chapter 2: International society: abstraction and experience from counterfeit to hyperreality

We welcome illusions because they spare us unpleasurable feelings, and enable us to enjoy satisfactions instead. We must not complain, then, if now and again they come into collision with reality, and are shattered against it.
(Freud, 2010 [1918], p. 3072)

The central argument of this chapter, and of this book, is that a central organizing concept of modern political life, international society, has lost meaning. The rules and norms that compose it are hyperreal in that they are pure representation without a connection to a substantial, meaningful reality underneath.

The first step in the argument is to establish that international society is, indeed, a central organizing concept of political life. Everyone encounters many concepts in the course of life that are not political, and many political ones that are neither central nor organizing, but the concept of international society deserves each of these adjectives because of the broad scope of political and social phenomena it purportedly covers, its prominence in casual and expert political thought, the frequency of its invocation, the range of people who invoke it and the expectations those who invoke this concept invest in it. To establish the concept's significance, I will first provide a hasty survey of how it appears in the technical literature, where it has been most explicitly formulated and the contours of the concept are most readily apparent. The general claim is that every major school of thought in the discipline of IR, and by extension the discipline itself, has international society at its ontological core, and this concept relates to the social system constituted and maintained by states.

However, there is plenty of political life outside the scope and interest of the academic IR discourse, so once it is clear how the concept is understood by those who claim to know what they are looking at and what they actually see, I will briefly examine its use in lay and practical discourse. Examining casual use of the concept is necessary to show that 'international society' is a constitutive element of hyperreality, not merely a hyperreal object in an otherwise unadulterated reality. Although

interpreting this discourse is necessarily more impressionistic because of its sheer volume and informality, it is also possible to identify general tendencies. Specifically, the lay concept of international society is actually expressed in terms of 'international community', and it is typically depicted as a superordinate subject endowed with a kind of agency in the last resort. Indeed, the folk concept refers to a supreme, if not supernatural, subject.

The second step in the argument is to determine what international society ostensibly means. Determining the meaning of the concept *after* examining its scope and use is perhaps counter-intuitive, but 'international society', like 'delicious meal' or 'great movie', is a concept that almost everyone superficially shares, but with little consensus about what exactly it can and should denote. Therefore, after establishing that the concept has currency, I must determine what anyone can possibly mean when uttering it. The obvious intuition, namely that international society consists of states that stand in some kind of social relation to each other, is absolutely correct. However, as soon as one disaggregates these terms into their component parts, it becomes apparent that states are themselves composites of norms, and a society is a complex of norms embedded in a narrative. So the reconstituted concept of international society as composites of norms standing in complex normative relations to each other, and all of that embedded in a narrative, is not as transparent as it appears at first.

And since the overall argument is that international society has become absurd, meaningless, the final step in erecting the theoretical edifice will be to develop a scale of meaning. First, before one can assess meaning, one must identify it. Semiotics, or the study of signs, is a well-established branch of thought devoted precisely to the purpose of identifying and analysing meaning and its carriers. Then, to assess meaning, I will present a scale developed by Baudrillard, which ranges from symbolic exchange value to use value to exchange value to sign value in decreasing order of meaningfulness. A semiotic system possessed only of sign value is also referred to as hyperreality or simulation, and this state of ubiquitous signs without meaning describes the current concept of international society.

IR and international society – a hall of mirrors

In this section, I argue that International Relations is the study of international society, and this argument proceeds in two steps. First, I will define International Relations and international society, which will allow various types of research to be included or excluded from the analysis. Some branches of research, such as strategic studies and foreign policy analysis, will be largely excluded, and some branches that pretend to transcend the international will be brought back in. Four dominant and overarching families of substantive theory, realism, liberalism, constructivism and critical theory, will remain as the core of the discipline, so their focus is *eo ipso* the focus of IR.⁸ Second, I will survey those four theories to show that, despite differences within and between them in how they characterize the parts of international society and how they expect those parts to interact, they all refer to international society as the principal ontological object of their research.

To claim that much of International Relations is directed at the study of international society, it is first necessary to define both the scope of IR and international society as a concept IR uses implicitly or explicitly. The scope of International Relations is reflected fairly well in the obvious semantic denotation of the words: as a social science discipline, it consists of studying relations between states, or whatever type of polity occupies the highest order of a given period, which could also include collectivities like empires and tribes. In other words, IR contains those bodies of thought whose ontologies are international in that they focus on the most macro of social entities and that provide some idea of how those entities interact. Therefore, the theoretical families of realism, liberalism and constructivism, to the extent that they are used to analyse the interstitial relations between states instead of focusing strictly on particular entities, belong to International Relations. This familiar trio also coincides with the core of the discipline as identified by recent surveys and textbook

⁸ In a fascinating case of struggle for semantic supremacy, several different groups of ontological and epistemological thought in IR claim the noun 'realism' for themselves, including political realism, neorealism, structural realism, critical realism, and scientific realism. To this already crowded bunch, I must unfortunately add 'hyperreal' and 'the real' in order to reference Baudrillard's ideas faithfully and recognizably. It will hopefully be clear from context which meaning is intended where, and the adjectives will be occasionally omitted to preserve the readability of the text, but in cases of doubt 'realism' without adjectives will most likely refer to political realism.

representations of the discipline's theoretical core (Kegley & Raymond, 2011; J. Snyder, 2004).⁹

As for international society, the concept is much older than its explicit formulation. There are traces of it in Thucydides, and these traces grew stronger and adopted a decidedly Christian orientation in the texts of early modern international jurisprudence of the scholastics and Grotius (Boucher, 1998). By the time of the Enlightenment, international society had become a commonplace in thought about law and international relations, appearing for example as *Civitas Gentium maxima* in the thought of Christian Wolff (Holland, 2011) and resembling Kant's notion of a *Völkerbund* (Kant, 1903 [1795]). Bull provided the currently standard definition: "A society of states (or international society) exists when a group of states, conscious of certain common interests and common values, form a society in the sense that they conceive themselves to be bound by a common set of rules in their relations with one another, and share in the working of common institutions" (2002 [1977], p. 13). I will suspend consideration of the 'consciousness' of states, which raises difficult ontological questions that will be answered below in any case, and focus instead on two essential characteristics, namely 1) that the components of international society are states and 2) that these states form a society by virtue of common rules and institutions that exist among them.

The two definitive characteristics of international society become still more pronounced when contrasted with two other conceptions developed by Bull and the English School of how international relations in general can look. The first is the concept of a world society, which refers to a "community of mankind" that will be achieved by the providential teleology of history and sustained by universal values that people will eventually realize, recognize and internalize (Wight, 1966). The obvious distinction in terms of structure between this concept and that of

⁹ Although modern textbooks are a good place to gather impressions about how a discipline's members perceive themselves and their work, at least in terms of the image they would like to perpetuate, and these recent examples coincide with the depiction here, most of the works cited below will *not* be particularly recent. There are two reasons for this. First, IR scholarship is increasingly recondite and focuses on explaining ever more specific outcomes with less concern for trying to understand the general form and character of international order. Second, much current IR scholarship is grievously presentist, which leads to overestimations of the momentousness and underestimations of the contingency of the present order.

international society is the existence and primacy of states in the latter. It is telling, however, that even though the English School's three depictions of social order in the world are used to classify various orders in different historical periods and the transitions between them, nobody claims to have identified a world society in history, beyond perhaps an imperfect, very localized analogue. Rather, it is a possibility that exists permanently on the horizon. The second alternative conception of world order in the English School is the international system, in which multiple states exist concurrently and have sufficient contact with one another that they take each other into account (Bull, 2002 [1977]). What is notably lacking here are the common rules and institutions that states erect and recognize among themselves. In that sense the concept resembles much more the 'billiard ball' model of neorealism, in which international 'order' refers to predictability within the model and 'system' refers to the consistent structural features (Waltz, 1979).¹⁰ In contrast to the repeated use of some form of 'international society' as an analytical concept over centuries, its asocial systemic cousin tends to make only brief, infrequent appearances in, for example, the early 19th century, as inspired by Vattel, and the last decades of the 20th century, as inspired by Waltz. Further, some prominent figures of the English School are so persuaded that states have *always* maintained common rules and institutions that they prefer to amalgamate the concepts of international society and system, confusingly using the term 'international system' to denote the idea of 'international society' (Buzan, 1993, p. 341; Buzan & Little, 2000, p. 105; Reus-Smit, 2011, p. 209; Wight, 1977, p. 23).

Before proceeding to demonstrate that realism, liberalism and constructivism are all focused on the concept of international society, and the bulk of IR with them, a recently emerging counterargument should be addressed. With the most recent wave of globalization and the apparently increasing significance of decentralized social

¹⁰ The received wisdom on Waltz (1979) often overstates the extent to which the states in his theory were atomistic. Such statements as "The acts and the relations of parties may be regulated through the accommodations they mutually make. Order may prevail without an orderer; adjustments may be made without an adjuster; tasks may be allocated without an allocator. ... The real society becomes hard to distinguish from the ideal." (67) and "All societies are mixed. ... Hierarchic elements within international structures limit and restrain the exercise of sovereignty but only in ways strongly conditioned by the anarchy of the larger system." (114) are evidence of considerable hedging on his part, which is to his credit, because it indicates a more refined theory than he is generally given credit for having devised.

movements, transnational market actors, the manic proliferation of international organizations, some have begun to question whether the state really is such an important social entity anymore and whether 'international' is even an appropriate adjective for global social organization. Rosenau (2006) suggests the term 'fraggementation' to denote the simultaneous integration of social units below the level of the state and fragmentation of the state itself. Zürn (2004) also describes a process of 'societal denationalization', in which the decreasing ability of borders to insulate national populations from competition and the growing popularity among national executives of making multilateral decisions among themselves without consulting those populations. Slaughter (1997) predicts a world in which functional bureaucracies merge transnationally, rendering the national governments that formerly and separately housed them obsolete. Trying to capture many of these dynamics at once, some have even proposed the seemingly contradictory formula of 'new medievalism' in a 'post-international' world (Y. Ferguson & Mansbach, 2008; Friedrichs, 2001). This is sold as the beginning of the end of *international* relations.

The theoretical-empirical approach to dismantling the state contains two variants. One theoretical-empirical argument holds that the state continues to exist, but it is being devoured from above by increasingly powerful international and supranational organizations and from below by increasingly assertive functional associations, like interest groups and non-governmental organizations (Bogdandy, Wolfrum, Bernstorff, Dann, & Goldmann, 2010; Deitelhoff & Steffek, 2009; Dunoff & Trachtman, 2009; Enderlein, Wälti, & Zürn, 2010). The second theoretical-empirical variant holds that the state, to the extent that it continues to exist in any interesting sense, is just another actor, and a fairly impotent one at that, in a complex heterarchical network of powerful entities, especially commercial corporations (R. B. Hall & Biersteker, 2002; Hardt & Negri, 2000). Whether the state has always been more of a referee for private interests or other actors are functionally replacing it, these views can inadvertently strengthen the ontological status of the state. Specifically, this narrative strengthens the state by ceasing to analyse it explicitly and focusing on other sources of power. Instead of problematizing the state as a source of power and rules in its own right, this new focus allows state power to work in the background. States thus become a condition for others' activities rather than a

problem in their own right. Although the prophets of the state's demise could well argue that the state deserves less attention *because* it has lost relevance, this would ignore the gatekeeper role the state continues to play in any conceivable transition. Any formal change at the level of large social collectivities must pass through states, and their resistance to such change seems to correlate fairly well with its importance, as the opposition to reforming the UN Security Council or the persistent weakness of (rare) supranational parliaments would suggest. Therefore, these empirically informed approaches to global governance seem to be eulogizing the state as an effective actor in international relations, but in fact they are elevating it to the role of director: still in charge but behind the camera.

There is a more fundamental objection against claims that the state is disappearing. Namely, the institution of the state continues to exert considerable influence on the choices available and made by billions of people. This objection is more fundamental because the preceding point that claims of the state's obsolescence overlook the procedural requirements of the change they describe is mainly of interest to professional observers trying to assign weights with their models. This interest is dwarfed by those of countless refugees rejected at a border or able to find sanctuary over an invisible line, by those of countless people who carry arms professionally and who face danger because of such things as territorial disputes, by those subject to terror and arbitrary violence for being born at the wrong place and at the wrong time, by those suffering (or profiting) from differential access to 'public goods' and others. Although a western parliamentarian might be able to make a seamless transition to a law firm in another western jurisdiction, and an industrialist might be able to join a foreign university's faculty for a semester or two without much extra effort, such are cases of elite privilege, not the norm. If the international has dissipated into a post-national constellation of diffuse authority at all, it has only done so for those who can afford to opt out of the state-based order to which most of the world is still subject.

Despite the increasing recent popularity of discounting states and their relations, the core theories of IR continue to focus on them. Realism, a very old and foundational school of IR, is the most conservative in its representation of international society,

even if realists rarely use the term. When it comes to describing international society, realists share several ideas about it. First, they share the notion of states as fairly coherent social actors. They may invoke various practices, such as diplomacy, or certain organizational or physical technologies to explain outcomes, but these are then seen as instruments of states without changing the fact that states remain the subjects implementing these instruments (Gilpin, 1984; Jervis, 1998). Indeed, everything states do is considered a means to perpetuate their own existence, implying that every act, possession and acquisition is instrumental, which also explains their emphasis on states' pursuit of power. Power is the decisive factor in determining outcomes. Not surprisingly, realists grant that states do invest in the erection and maintenance of international rules and institutions, but only when they expect to reap an advantage in terms of power (Mearsheimer, 1995). Because power is the decisive factor, and because it tends to be distributed unevenly, realists tend to rank states into categories including 'hyperpowers', 'superpowers', 'great powers', 'regional powers', 'middle powers' and, absurdly, 'small powers'. Therefore, it tends to be the 'greater' powers that establish international institutions, and those institutions tend to serve the management of 'greater' power relations. Despite broad agreement on these points, there remain differences in what types of international institutions realists recognize and their views on the desirability of this state of affairs.

One of the oldest types of international institutions of all and one commonly invoked by realists is the balance of power, and there are two types of balance of power that frequently reappear in the literature. The first arises without direct intervention on the part of states. That is, in their individual quests for power, all states pursue similar goals, or at least the common goal of hegemony, and these separate efforts cancel each other out automatically (Strohmeyer, 1994; Waltz, 1979). This notion of natural balance of powers led to a sustained digression in the IR literature on the subject of polarity, treating the question of how much stability is to be expected given the number and relative strength of states (Kaplan, 2008 [1957]). Because states need not actively maintain this type of balance, the international society it describes is the least 'social' of all. The second type of balance of power is one that states, or statesmen, either seek to preserve, though fortuitously discovered, or deliberately

erect for the purpose of maintaining stable social relationships among themselves (Bull, 2002 [1977]). This type is typically invoked when describing 'concert' systems (Jervis, 1983, 1985). Butterfield (1966) even sees the genesis of modern international society in the transition in the balance of power that occurred in the mid-17th century from a fortuitous circumstance to the 'very highest [diplomatic] objective': "...in so far as you were not being egotistical, you were supposed now to aim at the preservation of the international order, the maintenance of the balance of power" (140). Thus, even certain extreme forms of realism that discount the role of international organizations are still concerned with the operation of international society at least in terms of states managing the dilemmas posed by the mutually antagonistic goals of powerful states.

Among realists who allow for a broader range of international institutions, from implicit international norms to explicit international rules to formal international organizations, there tend to be three orientations. First are those who accept that these institutions are used instrumentally by powerful states to maintain their status but accept this as the way of the world and avoid passing any moral judgment for or against. Some have applied this view to customary international law, claiming that it is both an instrument powerful states use in pursuit of their 'national interests', and that the relative power of states determines which rules are accepted into the canon of international legal rules (Byers, 1995-1996, 1999; Goldsmith & Posner, 1999-2000). In other words, customary international law functions as a source and product of state power. After analysing the history of international society from ancient Sumer to the Cold War, Watson (1992) concluded that it tends to oscillate between more hegemonic arrangements, in which a small group of powers or a formal or quasi-empire exerts decisive normative authority, and more anarchic ones, where no state exerts disproportionate authority and more of a balance prevails. Gilpin (1981) presents a similar, if somewhat more gloomy, picture. Looking at a much smaller segment of history, he also tells a story of states developing norms to govern international society as their power waxes, but this process is intermittently interrupted by a systemic war in which one state challenges the primacy of the greatest power. But since he also claims that 'the fundamental nature of international relations has not changed over the millennia. International relations continue to be a

recurring struggle for wealth and power among independent actors" (Gilpin, 1981, p. 7), there is little point in moral condemnation, which would make as much sense as condemning rain or gravity.

The second realist orientation agrees with the first in terms of the ontology of states and institutions as manifestations of power, but when it comes to the moral value of this state of affairs, scholars in this second group find much to praise. Sometimes this praise applies more or less unconditionally to the process of powerful states erecting institutions. Schweller and Priess (1997), for example, provide a list of the benefits that great powers provide by erecting international institutions, including the provision of stability and order, a means to compel deviant states to change their behaviour, a way to help states, especially nuclear powers, to manage their capabilities, and a forum for weaker states to voice their complaints. Others argue that international society is dysfunctional without certain public goods,¹¹ such as a stable international currency exchange and a fairly stable security environment among trading states. The nature of public goods implies that every state would prefer to have another provide them, so it is left to a hegemon to supply them for all or no state would have any (Kindleberger, 1973, 1981; Krasner, 1976). In that sense, the hegemon, which is any state willing to take on the burden, is doing a service for the others. Some realists are more particular about the identity of the hegemon and the nature of the institutions it erects while agreeing that international institutions are the products and normative reinforcements of powerful states. For example, Nye (1990) presents an expansive view of power that includes the attractiveness of a state's cultural institutions and the penetration of its economic institutions in foreign markets, and though he welcomes this as a shift from a focus on military power and more lethal capabilities, he leaves no doubt that having the United States as the hegemonic source of these institutions is best for the world – and the United States. Taking a longer historical view and focusing on international economic institutions, Ikenberry has argued that they have simultaneously sustained American hegemony

¹¹ 'Public goods' is used here as a term of art referring to goods, which in fact are often services, characterized by non-excludability and non-rivalry. Non-excludability refers to the property that no one can be excluded from consuming the good in practice, and non-rivalry refers to the property that adding new consumers does not detract from the supply of the good available to existing consumers. Classical examples include public order and clean air.

as well as moderated the effects of the *imbalance* of power among states (1999, 2006, 2009). The realists who have a clear favourite in the competition for leadership of international society display a tendency to favour their own state and do so only when it already enjoys hegemonic status or is at least ascendant.

The final group of realists to consider consists of those who agree with the realist depiction of international society but are deeply critical of its moral value. Ayooob (1997), for example, is generally willing to consider states to be the relevant social actors, agrees that each state's concern for its own power endangers others, and acknowledges that international institutions and norms effectively bind states into a social order. His view differs from those above, however, in that a small subset of states have disproportionate influence in shaping this order, when "[Third World states] constitute a large majority in international society" (141). Koskenniemi (2004) focuses less on the states that must submit to the powerful states' rules and more on how these states make the rules among themselves. In his view, all states make claims in international law that are partisan and are meant to universalize their preferred interpretation of how international society is ordered, and more powerful states naturally have more influence in this process. Further, he argues that international law can be an especially pernicious international institution because legal claims are often considered to be removed from political contestation, so once a claim becomes legalized, it gains inordinate permanence.¹² These theories are clearly realist in their depictions of the parts of international society and how they interact, but they all exhibit considerably more moral unease than the others about the form and consequences of such a social arrangement.

Whereas realism sees in international society the consequences, and in some cases the causes, of hegemony among states for better or for worse, the liberal branch of international relations sees it in a more benign light. Instead of tools for states to dominate each other, the rules and institutions of international society are, for liberals, a means for states to achieve compromise even when their interests diverge. They share with the realists the view that international norms are instrumental, but

¹² This is reminiscent of a bon mot most often attributed to Brazil's late dictator-President, Getulio Vargas: "For my friends anything; for my enemies the law."

they are instruments to achieve commodious living, not hegemony. Beyond these common traits that all liberals share, there are at least two distinctions in how they view the basic components of international society. On the one hand, liberals diverge in their conceptualizations of what the state is, with some seeing it as a social unit in itself and others as just a coalition of other aggregated preference groups. On the other hand, they differ in the way they see international rules and institutions affecting the course of history with some seeing international society as progressing on a teleological path and others holding it to be a means to manage social diversity with every indication that it will have form similar to its current one in perpetuity.

The simplest of these four liberal theories of international society sees states as coherent, more or less unitary social actors that are plagued by a lack of mutual trust but still stand to gain much from deep and regular interaction. Since such liberals also see international institutions as creations of states, leaving states hierarchically above them, the question is when and how states would create such institutions at all, given their costs and states' mutual mistrust. In an early contribution that focused more on the 'why' of international institutions than the 'how', Deutsch (1968) reckoned that stable international rules are more likely to emerge "whenever an increase in international interdependence coincides with an increase in international diversity" (80). This formulation is also seminal to the discourse in that it describes the conditions of the *demand* for international institutions. Despite the economic connotation of this theory, Deutsch did not believe that supply would automatically match and fulfil this demand optimally. Rather, he included several other necessary, or at least strongly influential, preconditions, including power differentials, political compatibility and others. A later and pivotal liberal work refined the concept of demand for international institutions and did, in contrast to Deutsch, theorize that strong demand on its own would be enough to induce a commensurate supply. Specifically, Keohane (1983, 1984) predicted that international institutions could help states overcome the transaction costs of interaction, the lack of information about others' intentions and actual behaviour, and the lack of a legal framework to define and sanction deviance from common rules. This formal, economic formula, along with the assumptions of rationality that underpin it, allowed for models and hypotheses to be imported from economics, which themselves became ever more

formal. Purely abstract models were soon developed in which pre-programmed automatons served as inferential proxies for states, and 'norms' were reduced to the probability of punishment in cases of deviant 'behaviour', which itself was operationalized as a numerical value in an algorithm (Axelrod, 1984, 1986). Later liberal attempts at theorizing the international institutions of unitary states placed considerably more emphasis on the institutions, their variety, and why states gave them a particular form rather than just why states would create any institutions whatsoever (K. Abbott, Keohane, Moravcsik, Slaughter, & Snidal, 2000; Koremenos, Lipson, & Snidal, 2001). This project showed signs of overcompensating though, and, despite lists of variables indicating the contrary, it often seemed to imply that features of the institutions could be read backwards to infer qualities of the states creating them.

Perhaps because this line of research was becoming so abstract and formal that it was becoming difficult to extrapolate from it to observational data, liberalism soon returned to a more traditional concept of the state. It was clear to some scholars that some states, especially democratic ones, had complex processes to make foreign policy decisions, and these would produce outcomes that the unitary state models found difficult to predict. To remedy this, they tried to devise models of the state that would consider the roles of interests groups both internal to the state and between them (Moravcsik, 1997; Putnam, 1988). Instead of taking the state as an effectively pre-constituted actor with built-in preferences, these scholars looked at the various interest groups that would exert political pressure with diverse means in various forums until an authoritative foreign policy decision could be made. And just as state bureaucracies were seen as an organized structure in which these competitions for preference supremacy took place, usually yielding some compromise that all found at least minimally acceptable, international institutions were seen as embodying a similar function for coalitions of states. Decision-making authority is the prize of the competition, and competitions at lower levels allow authority to be successively delegated to ever-higher levels (Hawkins, Lake, Nielson, & Tierney, 2006; Lake, 2007). Though sovereignty as a characteristic and usually definitive attribute of states become increasingly complex in this chain model of authority, states maintain their

centrality because they serve as the fundamental receptacles of sovereignty that are able to delegate portions of it elsewhere and rescind those delegations in most cases.

Another liberal approach that tried to explain features of international society with reference to states' internal constitution is the democratic peace research project. The roots of this branch of liberal study arguably dates to the late-18th century, when Kant ventured to predict that, if all states were republican, free and observed universal rules of hospitality, war would cease (Kant, 1903 [1795]).¹³ Equating republican states with democratic governments, Doyle (1983a, 1983b) observed that this had largely come to pass. There followed a vigorous debate about what modern mechanisms might be inducing peace among democracies (Chan, 1997; Oneal, Russett, & Berbaum, 2003; Russett & Anapolis, 1995; Russett & Oneal, 2001). That the states of interest were democratic clearly refers to their internal characteristics, but there were a few different suggestions on what would constitute the international institutional component of international society in this case, with international organizations as the leading candidates (Hasenclever & Weiffen, 2006, 2007; Pevehouse & Russett, 2006). Exactly how the internal and external factors combined to produce peace among democracies was and is disputed, but this discourse was clearly describing a society among states. The states involved are composite actors, as implied by the concept of democracy, and there were certainly particular norms and institutions that applied to them, but the membership of this society would be restricted to those states that meet the criteria rather than admitting all states by virtue of their statehood.

Whereas both of the liberal perspectives above seek to explain particular outcomes within and features of international society, another branch of liberal thought in IR seeks to understand the character of international society as a whole and to situate it in history. This branch can also be divided into two subcategories: those who attribute changes in the form of international society to a broader teleology of human affairs and those who see states and the other institutions of international society as a

¹³ Kant included a number of other very sensible 'preliminary articles' relating to conditions such as the need for treaties not to be secret and for standing armies to be abolished. Unfortunately, these are virtually never recalled in the IR discourse on the subject.

mode of perpetual conflict management among diverse human groups with no end in sight.

Starting with the teleological view of international society, it is apparent that here too Kant made an early contribution. About a decade before the anticipating a peaceful federation of republics, he argued, roughly, that the mutual antagonism of people in society would push them to use their reason to erect legal order within each society. These societies are similarly antagonistic to each other, and after a long historical process of learning through trial and error, the diverse legal orders will be able to accommodate each other better and yield a superordinate *Foedus Amphictionum* (Confederation of Nations), in which all social units are secure and granted appropriate rights (Kant, 1798 [1784]). Fukuyama (1989) also saw international society achieving its fruition through the process of successive conflicts. But whereas Kant expected diverse societies to reach some rough compromise over time, Fukuyama, relying on Hegelian dialectics, saw liberalism, for him more or less a combination of democracy and capitalism, fending off successive rivals until none remained. Taking these arguments a step further, Wendt (2003) argues not only that international society will achieve a terminally peaceful state, but that it will cease to exist, with its various constituent societies gradually integrating into a world state.

Whereas the progressive, teleological view of international society almost seems to imply that there must be some greater purpose in how societies are organized and perhaps in history itself, a competing view sees international society as simply an organizational way to muddle through history while preventing the worst horrors. Here states are seen as social containers of groups that are simply too different to integrate further, and international society consists of the rules and customs that allow them to sustain their diversity with a minimum of hostility. Two distinctions are frequently invoked to make the point. The first is to present international society as a *via media* between the unpredictable anarchy of an international system and the utopian, and possibly hegemonic, unity of a world society, using Bull's classical English School trio presented above (C. Brown, 2001a, 2001b; Hurrell, 2001). The second is to distinguish between purposive associations, which have a more or less explicit goal to pursue, and practical associations, which exist merely to foster a civil

atmosphere among their members (Fried, 1968; Nardin, 1983). In that sense, international society is more like the self-restraint and mutual consideration displayed by good neighbours than the macro-expression of the fruition of human reason over the centuries.

Although comparing these diverse realist and liberal views of international society helps to see how different conceptions of international society can be, they are all somewhat superficial. They all give different accounts of what to expect, but they all assume much of what could yet be explained. They all deal with states, making them all clearly *international* theories, but they merely scratch the surface of what states are. Presenting states as formal political units that the dominant interest coalitions have managed to capture, or democratic in a sense that renders them compatible with similar states, seems to be reverse engineering the concept to fit the demands of a preconceived theory. States do many things internationally, like insisting on flag placement and language use at meetings, that have nothing to do with these theoretical expressions at first glance. Presenting them simply as hungry 'units' places the explanatory weight heavily on external factors to determine their behaviour, as if they were not filled with anywhere between 13 000 and 1.3 billion people with cultural baggage accumulated over centuries. Similarly, they tend to present rules in one of three unsatisfying ways: either as algorithmic terms that would require very little deliberation, as essential metaphysical features of human society, or rules are explained backwards with reference to their utility relative to a counterfactual rather than forward from their genesis. Because constructivism is the substantive IR theory that is more concerned with what social things like states and rules are and how they work instead of what factors impinge on them to yield what outcomes, it makes sense to switch the focus slightly from patterns and outcomes to substance and ontology.

Constructivism offers the final mode of theorizing international society and its components. This approach presents the most naturalistic, if not necessarily the most intuitive, ontology of international society. The basic idea of constructivism is that many components of reality do not naturally occur, but are the product of how subjects interact and come to think about the world. In other words, the intuition is

that no amount of examining the periodic table, physical laws or the dynamics of biological evolution will yield the complex forms of language, organizational forms and routinized practices that constitute the points of reference for social interaction. Since the typical objects of IR, like states, governments, nations, policies, international organizations and so on certainly cannot be reduced to the categories of natural science, there is good reason to ask what they are made of.

The substance of international society from a constructivist perspective is ideas. The ideas that subjects generally share about the world singly acquire the status of institutional facts (Searle, 1995) and jointly of social structure. Social structure is obvious in the cases of states and international society, which become quasi-substantial objects in themselves, but it also applies to subjects. Identity, in the constructivist lexicon, refers to the elements of structure projected onto subjects, which is to say that the intersubjective ideas people have about citizenship, diplomatic immunity, military duty or refugee rights, for example, also apply to individuals. That is, social structure consists of intersubjectively held ideas about the world, and subjects themselves are part of that world. Whereas the liberal and realist schools of IR tend to describe how people deal with objects in the world, constructivism tends to describe how the world consists of cognitive, but shared, objects in people's minds.

These basic elements of constructivist IR theory are fairly uncontroversial, but there are two aspects that evoke considerable disagreement and that are particularly relevant to constructivism's notion of international society. The first element is normativity. If the question is what provides stability to the social structure and allows subjects to orient themselves in it consistently from one day to the next, the answer is normativity. However, the composition of normativity depends on which constructivists one asks. One conception of normativity contrasts it with instrumentality such that the latter refers to subjects pursuing pre-existing desires and the former refers to subjects' propensity to act out of a sense of rectitude and propriety (Kratochwil & Ruggie, 1986). In terms of logics of action, instrumentality is also known as the logic of consequences and normativity as the logic of appropriateness (March & Olsen, 1998). Because subjects are committed to certain

ideas about the world in the sense that they consider them right and proper, the structure those ideas compose remains fairly stable. The other conception of normativity sees it built into the language and routine behaviours, also known as practices, that subjects use to communicate and engage in the world (Karen Fierke, 2002; Hopf, 2010; Pouliot, 2008). Here agents might be less cognizant of questions of rightness or propriety in how they construct the world, but the acquired naturalness of the actions or ideas equally makes them resistant to change. Both of these conceptions, which are not even mutually exclusive, are readily applicable to international society. It is just as easy to see subjects' notions of appropriateness at work in the types of international rules subjects believe there are and should be as it is to see that there is a specific language and habitude to how states and state agents act relative to each other.

Locating the substance of international society in the ideas in people's heads and considering why the content of those ideas is stable from day to day is an important part of the equation, but constructivist IR does not stop there. Of course, ideas about how states do and should relate to each other also change over time, so the other element of constructivism, and one about which there is also considerable disagreement, is how to account for change. Again, two contrasting positions are also identifiable here. The first starts from the intuitively plausible idea that if social structure consists of intersubjective ideas, it will change when subjects change those ideas. Some accounts treat this as the result of individual subjects selling new ideas about how to structure the world appropriately, even using the term 'norm entrepreneur' to highlight the type of activity involved (M. J. Finnemore & Sikkink, 1998; Keck & Sikkink, 1998). There is also a more deliberative view, where all subjects hold ideas about how to best structure the political world, and they exchange ideas and subject them to mutual scrutiny with the 'best' proposal carrying the day (Deitelhoff, 2009; Müller, 2004; Risse, 2000). Both of these consider how individuals change or introduce normative ideas with fairly direct action in a fairly short timespan. The alternative accounts of change consider much longer periods with much less direct, intentional activity. Instead of individuals making dramatic and rapid changes, this second model of change considers small adjustments accreting over long periods of time (Cederman & Daase, 2003; Deutsch et al., 1957; Wendt,

1992, 1999b). Whereas attempts of the first type to change social structure are deliberately directed at that outcome, those of the second need not be and can instead result from accidental or incidental changes in how subjects see and act in the social world. Again, these two perspectives are often contrasted, though they are not incompatible. One could even see them as micro-foundational and macro-historical parts of the same ontological and explanatory project.

In IR practice, the constructivist ideas presented here are directed at states, the institutions that structure their interaction and how these notions structure subjects' activity and their relations to each other. Although it is rarely made explicit, IR constructivism tends to start from the premise that the power and hierarchy of realism and the opportunism of liberalism can be alleviated with rules of process and beneficial norms. There also tends to be greater empirical focus on progressive norms (M. Finnemore & Sikkink, 2001). As a result, constructivism is not only about international society in the sense that it seeks to analyse and account for the form of states and the institutions by which they relate to each other, but it is in many cases about international society in the sense of promoting a more social and institutionalized mode of being among states and subjects. International society is not merely the research object of constructivism in IR, but often its goal as well.

The final group of theories to discuss are those that I, for lack of a better collective term, will call 'critical theories'.¹⁴ While they demonstrate considerable variety among themselves, they share a couple of important characteristics that allow them to be grouped together: they take the implicit critique of mainstream constructivism and make it explicit, which is to say that they directly challenge the inevitability, rectitude and desirability of the prevailing social order; and the critique focuses on power differentials. There are also marked differences between different kinds of critique, but they all integrate a notion of international society. They are also important because especially the more epistemic and semiotic examples are most closely related to the theory I will develop below.

¹⁴ I am aware that 'critical theory' is often used to describe narrower branches of theory than I describe here. I use the term for lack of a better way to refer to these theories together, not to propose a further definition for the already overloaded term outside the context of this work.

The first group of critical theories to consider contains the more or less Marxian variants. That is, they see capital as the source of power and international society as the medium through which it is exercised. For example, though Gill (2000, 2012, 2003) identifies transnational social movements as a new kind of political actor that can oppose the power of capital, they appear in his theory as the antagonist of familiar state-based institutions, like the World Trade Organization and the North American Free Trade Agreement. Thus, even though he considers social groups other than states and state-based institutions to hold more promise for the future, international society remains the context in which they currently operate. Presenting his analysis in more explicitly historical terms, Wallerstein (1974) takes the Marxist concept of class and argues that it applies among states in international society as well as among individual market participants. This is perhaps an even stronger notion of international society than many of the other theories considered here in that it elevates capital and relations of production to the status of institutions that constitute international society rather than just incidental features of it. Jessop (1990) also takes an explicitly Marxist approach and attributes the form of the state and the hegemonic project that the 'state system' represents to the types of value admitted in capitalism and the accumulation strategies they encourage. These theories all criticize the undue power accorded to capital and identify international society as the means with which capital articulates and exercises its power.

The second branch of critical theory is less focused on economics and more on epistemology. Rather than Marx, the intellectual forebear is Foucault. Accordingly, the argument is generally that states and the social institutions that they share constitute a form of knowledge that both accords different statuses to different people and groups as well as being more accessible to some and less to others. For example, Keeley (1990) reverses a familiar liberal argument about international regimes, arguing that, while they generate knowledge and common understandings about how to deal with problems, these knowledges, understandings and problem definitions are also hegemonic in that they suppress alternatives. Similarly, Cox (Cox, 1981) argues that power operates and is contained in historical structures, which are composed of material capabilities, ideas and institutions. In this scheme, states and international institutions are structures that, while generally taken for

granted, necessarily yield unequal benefits. These theories are arguably more profound than the economistic Marxian theories because they are one step further from reifying power. That is, economistic theories equate power and wealth by definition, but the epistemic approach allows this equation itself to be problematized. Further, a theory that focuses on hegemonic knowledge can potentially explain why certain constellations of power prevail despite vacillations in the distribution of wealth. Explaining the persistence of structural forms on the basis of capital, though, requires attributing interests and desires to capital rather than human subjects, which is possible but more demanding.¹⁵

The final branch of critical theory to consider is the most sophisticated and the most difficult because it integrates both the economic power of capital and the epistemic power of knowledge and meaning. For example, Laclau and Mouffe (2001) present a very complex argument that integrates a healthy dose of Marxism with a poststructural semiotic theory of how meanings and identities change. To summarize radically, hegemony is the result of relations of production, but the signs that denote who and what in these relations mean what are constantly at risk of disruption. And while the goal is to transcend the subordination and exploitation in a hegemonic order, the state is not just an instrument of class interests because class and state are already inseparable.¹⁶ Working at a similar level of abstraction, Hardt and Negri (2000) use the central concept of Empire to combine an economic and epistemic critique of the prevailing world political order. However, their concept of Empire is remarkably similar to that of international society in all but inflection. For example, Empire is a juridical formation possessed of ethical values, durable relations of economic exchange, and it has reached its apex with the United Nations. The critique comes from the claims of epistemic domination, in which the values of Empire are the source for the criteria of legitimacy and provide an Empire-friendly solution to any problem. In that sense, Empire is a totality that admits no external views or

¹⁵ Critical realism provides the clearest epistemological means to conceptualise capital as a quasi-actor. See Patomäki and Wight (2000), Bhaskar (1989) and Pühretmayer (2014).

¹⁶ While Laclau and Mouffe rarely discuss the international in the sense of 'international relations', they are not consciously engaging in the particular intellectual disciplinary exercise that most of the other works described here are. Further, their post-Marxist, Gramscian concept of 'the State' would not necessarily make a strong conceptual distinction between any particular state as political unit and the rules and organizations of international society.

criticism, at least not if it is to count as knowledgeable and thinkable. Thus, these sophisticated theories also consider questions of international society, and they do so in terms of meaning, subjectivity and alienation, as does the theory I present below.

Despite their sophistication and their affinity to the theory presented below, these hybrid critical theories leave room to consider further theoretical formulations. One area they leave open is in terms of alienation, which they tend to consider in Marxist, economic terms. While Laclau and Mouffe do consider the potential for alienation from meaning, their consideration is restricted to particular signifiers, but alienation is possible, and all the more troubling, at the level of an entire semiotic system that has been sapped of the capacity to contain or communicate meaning. Second, the economic analysis also allows for fairly ready identification of winners and losers, the subjugated and those who profit from it. If alienation is an absolute semiotic phenomenon, though, there is no profit and no winner. Some may enjoy more commodious circumstances or be able to dictate certain aspects of others' lives, but they are no closer to meaning or autonomy. Finally, to the extent that these theories are focused on the dissipation of meaning, their economic tendencies restrict them to modernity. This restriction is due to the simple observation that the present international society can be traced at least to the high Middle Ages of Europe, as I will argue below, and while the dissipation of meaning over the last millennium has been fairly constant, the political economic configuration of local society and international society has varied dramatically. Therefore, while recent relations of economic subjugation ought not be discounted, the dynamics that led to the current hyperreal international society preceded them and can presumably persist independently of them.

Finishing with constructivism and these critical semiotic theories is appropriate because they also provide the clearest and gentlest transition from the familiar ontologies of mainstream IR and the semiotic ontology presented later. Because that semiotic ontology is just a prelude to setting up a framework to analyse the meaning of international society, it will be considerably more powerful if that framework applies to something more than abstract and more or less self-contained theories devised by those who produce abstract, self-contained theories for a living.

Determining the meaning of international society is especially pressing if it is not only a way that experts make sense of the world, but also a way that the powerful shape the world and the meek hold responsible for the shape of their world. Therefore, this hasty discussion of the diverse expert concepts of international society should be supplemented by some analysis of the folk concept(s). Alternatively, one could consider the folk concept to be a form of constructivism at the phenomenological, as opposed to formally theoretical, level. Before I describe the form of *how* people think about international society, let us ask *what* they think about international society.

The déjà vu of international society

International society is the central concept of IR with good reason. One of the discipline's perennial preoccupations concerns its own relevance to the world outside the internal disciplinary discourse and ways to increase it, and the proposed solutions to this existential academic angst usually involve attracting the attention and esteem of 'policy-makers' (Frieden & Lake, 2005; Lepgold, 1998). However, international society, especially through its twin concept in the folk discourse about international relations, 'the international community', enjoys wide currency, and they are not restricted to the elite community of foreign policy making initiates. This popular conceptual appeal is important for three reasons. First, to the extent that IR is about international society and this concept is a concern for the world outside the academic discipline, IR *is* relevant. The second, derivative, reason is that this relevance is virtually without geographic or socio-demographic limit; that is, *everyone* seems to care about international society and what it means. Third, it raises the stakes in determining what international society means. If the concept is widespread and held dear but turns out to be a chimera, the disappointment would be much broader and deeper than would be the case for piece of mere academic trivia. The case for international society's centrality and uses in the academic discipline of IR was made above, but its general prevalence and significance must be established for this part of the argument to be credible, and this is the next task.

The first point to note about the popular concept of international society is that it is almost never referred to as such. Whereas professional scholars have devised several

explicit definitions for 'international society' and agonize over their penumbra, the popular discourse typically refers to 'the international community' instead. A further point to note about the concept is that it is so prevalent and its denotations so vague¹⁷ that any attempt to grasp it quantitatively is doomed to fail because there are too many types and contexts for the quantitative claim that only one type of thing has been counted to be credible. Instead, it would seem more promising to compare a few episodic uses of the term in different contexts to determine what people mean when they invoke the international community.

One context in which the international community is frequently invoked is in cases of conflict involving polities with deficient sovereignty. For example, a year after achieving formal independence, South Sudan still had unsettled borders with Sudan, from which it had separated. The territorial dispute has yielded several skirmishes in which hundreds have died. In light of the political impasse and the tragic loss of life, the Archbishop of Juba implored that "The international community must help us to demarcate the border between Sudan and South Sudan" (Fides News Agency, 24.04.2012). Similarly, after spending five months trying to mediate peace between the Ba'ath government of Syria and the rebels fighting against it, Kofi Annan, the former UN General Secretary, resigned from his position as Joint Special Envoy. In his statement at the press conference announcing his resignation, Annan cursed the disunity, indolence and cowardice of the international community, lamenting that "I can't want peace more than the protagonists ... or the international community for that matter" (UN News Centre, 02.08.2012). In both cases, the international community is depicted as a higher power, a collective agent of indeterminate composition that is not only hierarchically superordinate to the conflicting parties, but to all individual states in general.

Another context in which the term frequently appears is in cases of disasters both natural and contrived. As with the case of conflict among imperfectly sovereign

¹⁷ Still, there have been attempts to define 'the international community', as a 2002 forum in *Foreign Policy*, entitled 'What Is the International Community?', would indicate ("What Is the International Community," 2002). Though it should be no surprise that the contributors, who included such luminaries as then UN Secretary General Kofi Annan and *linguist* Noam Chomsky, failed to devise a consensus definition, it is noteworthy that they all, with the partial exception of Annan, used the forum to bemoan the international community's deficiencies as a higher power, which reflects an important aspect of the popular discourse described below.

polities, there tends to be considerable suffering involved and the international community is an amorphous but superordinate collective actor that is expected to serve as the saviour of last resort. For example, the leaders of the 'BRIC countries', which could perhaps be defined as an international sub-community, met in 2009, just as the scale and persistence of the global financial crisis was becoming clear, in Yekaterinburg to discuss the problems and potential for global development. It should be noted that this quartet was christened by a Goldman Sachs representative and categorized based on these countries' underestimated potential to acquire and exert political influence. However, in the joint statement at the end of the meeting, the leaders of Brazil, Russia, India and China called on the international community to stabilize international trade, provide financial liquidity for highly indebted states and generally minimize the effects of the crisis ("Joint Statement of the BRIC Countries' Leaders," 16.06.2009). Similarly, following the catastrophic tsunami and subsequent nuclear meltdown in Japan in 2011, Jacques Attali, a French intellectual and occasional civil servant, demanded in an editorial that the international community help Japan in its desperation to contain the disaster (Attali, 30.03.2011). To reinforce the argument that the international community was an agent capable of such a task, he specifically invoked its intervention to prevent the worst from occurring in the financial crisis. Again, we see that the international community is presented as a higher power that is not only capable of intervening when even states, the ostensibly supreme political powers, fail, but is also *responsible* for doing so.

But the international community enjoys another inflection beyond the role of saviour. It is sometimes also the accursed and distant tyrant, inflicting injustice on the wretches deserted by modernization and globalization. Pirates are often considered the archetypal outlaws of international society because they are allegedly at war with all states at once and, by extension, with humankind as a whole (Azubuike, 2009). However, the pirates see here a misattribution of cause and effect, with the international community as a vast, cruel and supremely powerful agency that has condemned them to piracy. For example, the Spiegel reports on fishermen in Somalia who are desperate because their livelihood has become untenable for all the pollution, interference and intimidation by larger, more powerful and foreign vessels. The fishermen see the foreign intervention as actions by the international

community, and they expect the international community to stop it and help them refrain from resorting to piracy (Knaup, 14.04.2008). Though separated from Somalian pirates by half a planet, Alivio Aruquipa, a village leader in Bolivia, sees himself in similar relation to the international community. His complaint is that this community has eroded the glacier from which his village derives water, and his strategy is now to lobby the international community for reparations through an international environmental court that has yet to be established (Schipani, 19.04.2010). Ironically, he learned of the idea for an international environmental court while discussing his problem with others who have been similarly affected by global warming at the UN Climate Change Conference in Copenhagen in 2009. So, the means to defeat an abominable supreme being in the form of the international community came from the institutions of international society exalted by liberal IR. Importantly, however, neither the fishermen on Africa's east coast nor farmers in the Bolivian Andes can be considered global political or academic elites, so the international community is a truly folk concept. Their treatments of the concept also show that, to the extent that the international community is a supreme other that is absolutely remote but absolutely powerful, it is not always seen benevolently.

The 'international community' resembles the Big Other, which is a psychoanalytic concept referring to the radical alterity that the subject cannot subsume within itself and gives it awareness of itself. But these two views, from above and below, present the Big Other very differently. The practitioners' non-academic notion of 'international community' resembles the 'God of Philosophers'; that is, an agency responsible for and preserving the rational structure of the universe, to be called upon when events get out of hand and chaos threatens. On the other hand, the 'common' view from below depicts the international community as the 'God of Theologists', an agency possessed of love and hatred that expresses its impulses immediately and capriciously (Žižek, 1997). The latter is far more likely to threaten the prevailing order and be a cause of chaos. However, both serve individuation by contrasting the radical powerlessness of the subject, whether in the form of an international organization the speaker identifies with, like the UN, or the individual self as fisherman or local politician, when faced with a tempestuous and wilful superior agency.

In more conventional analytical terms, the folk concept of international community and international society as a term of art are clearly homologous, given that they comprise the same adjective and closely related nouns,¹⁸ but nor are they identical here. Perhaps the most important difference is that the academic concept is analytical in that it *decomposes* something more general into its components, with the precise designation of the components and their interrelations varying by school of thought, whereas the folk concept is aggregative in that it seems to combine various powers and entities, which many professional observers would consider distinct, into a more general and amorphous subject endowed with some kind of agency. Whereas the academic concept is a context for action, the folk concept is a source of action. Indeed, the folk concept, with its ambiguous and versatile power, resembles in many usages the 'it' in thoughts like 'it had better not rain on my birthday' or 'it's not fair, but it will all work out in the end'. In some cases, 'international community' takes on nearly divine proportions reminiscent of the God Jesus addresses in Psalm 22:1: 'why hast thou forsaken me? why art thou so far from helping me, and from the words of my roaring?' If 'international community' is so dearly held as a concept, IR should handle it carefully, for the existential stakes could hardly be higher.

The ontology behind the representations

To recap, IR has not only produced manifold variations on the concept of international society; IR *is* the exercise of formulating and promoting these variations. There is also a related folk concept of 'international community' that exists in popular consciousness as a supreme agency responsible for restoring order in the last resort and condemned when it fails to do so. And the objective of this chapter is to develop means that will make the meaning of these ideas subject to assessment and judgement. Clearly though, despite its central importance for the discipline of IR

¹⁸ Despite these nouns' apparent similarity, one can usefully differentiate between 'community' and 'society'. Indeed, Max Weber coined neologisms referring to the processual aspects of their respective German equivalents with *Vergemeinschaftung* and *Vergesellschaftung*, and he derived considerable theoretical utility from the difference between the corresponding identity-based communities and interest-based societies. However, the fact that a very creative social scientist found it useful to distinguish between them does not obviate their similarity in use, even by those concerned with technical definitions. In fact, that Weber had to invent new terms to distinguish them clearly reinforces the intuition about their similarity in use.

and its almost divine significance in popular discourse, the idea will still resist analysis because it is too vague, and it is too vague because it is too ambiguous.¹⁹ The solution, then, is to return to first principles and determine what these terms can mean, given the features of the world they ostensibly describe.²⁰ This reduction is the next task.

The first obvious and uncontroversial feature of international society is that it must consist of several states, which is necessarily implied by the adjective 'international'. This quality deserves to be investigated further, and it will be, but let us first consider states as the more basic elements. An obvious feature of states is their immateriality; that is, they only exist as objects of thought, ideas, but they are not material objects. States may be denoted by material aspects, such as territory, flags, people, symbols and even activities of various kinds, but nothing in the physical structure of such material things necessarily connects them to stateness without the influence of ideas (Cox, 1992; M. Finnemore, 1996). That is, ideas about material objects can make stateness pertain to them, but stateness is not an inherent quality of any material thing. A river is only and always a stream of water than runs downhill to the sea; a riparian boundary consists of ideas about states applied to a river.

Given that states cannot exist without ideas, the next step is to determine what kinds of ideas they are, if indeed they are all of a general kind. They are, and the kind is rules.²¹ States are made of rules, and any stateness that applies to material things

¹⁹ Because they are often used synonymously, the distinction between vagueness and ambiguity might not be clear. 'Vagueness' simply refers to the quality of having uncertain meaning, and 'ambiguity' refers to the quality of having dual/multiple meanings. Not all cases of vagueness are due to ambiguity, though. Dissimulation, dishonesty or simple nonsense can also lead to vagueness because they would imply false or insufficient denotation, but ambiguity causes vagueness because of multiple denotations.

²⁰ It might seem odd, especially from a constructivist point of view, to survey how professionals and lay people use a particular term and then to claim to say what the term *really* means beyond these usages, but there is no conflict. The first exercise is observational and has the aim of cataloguing the different mental representations people have of international society, and the second is analytical and has the aim of determining the minimal ontological features of international society. In Peirce's (1955) terms, the last section described international society in various forms of interpretant and this section describes it as an object.

²¹ It is quite likely that 'norms' would be a more standard term here than 'rules'. However, the most commonly cited definition of norms in the discipline presents them as "collective expectations about proper behaviour for a given identity" (Jepperson et al., 1996, p. 54), which seems to imply that identity is prior to norms. As should be clear from my argument below that all regulative norms are

does so only by virtue of rules (M. Finnemore, 1996; Onuf, 1994; Wendt, 1998, 1999b). These rules come in several varieties. There are rules of interpretation, which indicate how to categorize and recognize things such as treaties, embassies and armies; rules of behaviour, which explain what agents of the state can or must do in given circumstances (with the characterization of those circumstances determined by rules of interpretation); moral and evaluative rules, which prioritize certain kinds of behaviour or derivative rules over others, and more. The concept of 'rules' has been synthesized considerably with other ideas, especially as it pertains to states and international society. Three syntheses in particular will be covered here. The first is the combination of rules with the concepts of constitution and regulation. The second is the application of rules to 'domestic' contexts versus international contexts, and the third is the synthesis of rules with the concepts of teleology and custom, although this final aspect will be covered in the next chapter.²²

The idea that states and the society they compose consist of ideas is a fairly mainstream, if not orthodox, constructivist claim, as I argued above. However, social constructivists also typically distinguish between regulative and constitutive rules (Barnett & Finnemore, 2005; Casey & Scott, 2011; Duffield, 2007; Kratochwil, 1989; Raymond, 1997; Searle, 1995), but this distinction *never* applies to states. The distinction is normally based on whether the activity in question is thinkable in absence of the rules: if so, the rule is regulative, and if not, the rule is constitutive. Searle raises the examples of driving and chess, explaining that the rule to drive on the right side of the road is regulative because driving is possible without that rule, but in chess, the possibility of the activity arises simultaneously with the rules, and

constitutive, I disagree with giving priority to identity. Therefore, I have opted for the hopefully less loaded and more generic term, 'rules'.

²² This third species will be covered later because this discussion is primarily about ontology, whereas the distinction between teleological and customary rules serves more of an epistemological purpose in this book. That is, it is less a matter of what parts of reality are relevant and how to think about them and more about where to look, given what we want to know about reality. To avoid keeping the reader in unnecessary suspense, the short version is that teleological rules describe more an aspirational state of affairs, whereas customary rules ostensibly pertain to things as they are, so if we want to know about actual features of current and historical international society, customary rules are the more useful. However, the gap between the customary rules that are supposed to describe reality and subjects' actual behaviour is more informative for the purpose of discerning hyperreality than the gap between the aspirational future described by teleological rules and the depiction of reality supposedly embodied in conventional rules.

as rule violations accumulate, the less the activity is recognizable as chess (1995, pp. 25-26). Kratochwil uses the more primordially moral example of Sixth Commandment of the Decalogue, "Thou shalt not kill",²³ as an example of a regulative rule that regulates behaviour but does not constitute killing (1989, pp. 26-27). A moment's reflection will reveal that this distinction is untenable for social kinds, and it collapses because we identify every instance of a social kind with reference to the rules that apply to it. In other words, we recognize social things by what they can and cannot do, or more precisely, what they allow people to do in their names. This must be the case if a social kind becomes harder to recognize the further it deviates from the rules that apply to it, even if these rules would traditionally be considered 'regulative'. As rule deviations increase, identification decreases. And this is indeed the case. This also implies that rules and identity are co-constitutive, just two sides of the same coin, which entails that it is impossible to regulate a pre-existing social kind without modifying that kind, so all rules that apply to social kinds are constitutive.

The argument that states are social artefacts, implying that all rules that apply to them are constitutive, is standard constructivist philosophy, but I will belabour the point because the distinction between regulative and constitutive rules is so widely held in IR that dissolving the distinction has attracted considerable resistance, and it is important. Just like chess pieces, the rules that regulate what states can do also define what they are. Another way to think about regulative rules is that they endow social things with abilities, and these abilities are simply qualities of the thing, the attributes by which we identify them (Whitehead, 1961 [1933]). This argument also works in the reverse. As we remove or change the qualities of a social thing, which we can do by removing or changing the rules that apply to it, it becomes less that kind of thing and more something else. A catalogue of rules that apply to states is the most precise definition of them, and in absence of these rules, nothing state-like remains.

²³ This is the sixth according to the Jewish and Orthodox modes of reckoning, but the fifth according to most Lutherans and Catholics. The disparity is because of *ambiguity* in what to count as a commandment (see fn. 17).

Applying this logic to some examples that were originally chosen to demonstrate the distinction between constitutive and regulative rules should provide a fair and instructive test. The first question is whether the states and international interaction are more like driving in the sense that there is a pre-existing activity modified by the rules, or more like chess in that the applicable rules define the kind entirely. They are clearly social kinds like chess, and it was already argued above that states only require some material base as a projection surface for the rules that constitute them, just as a chess game requires a board and pieces. In the absence of rules, no stateness, and by extension no internationality, remains. This becomes even clearer by examining Kratochwil's example of the injunction against killing. It is true that killing is possible prior to 'thou shalt not kill', but this merely indicates that Kratochwil committed a category error. Animals, heavy machinery, natural disasters and even poisons or quicksand can kill, but the commandment does not apply to any of those things. The commandment is, however, constitutive of *murder*, and it applies to people as moral individuals. Indeed, the ability to murder can help to identify what counts as a moral individual, because if a clever non-human animal, such as a chimpanzee or a dolphin is capable of an act that could be described as murder, this would also mean that a corresponding injunction against killing in certain circumstances applies to them, and it would imply that they are moral individuals to some degree. The same logic applies to states and war: any group of people can set out to do violence on another, but *jus ad bellum* and *jus in bello* identify what counts as 'war' in distinction to mass violence. Any rule that regulates what a social thing can do qualifies that thing, and social things consist of their qualities, so regulative rules are always constitutive when applied to social kinds. There is no difference.

Because international society is identical with the rules that apply to states, rules pertain to all acts that states or, more accurately, those designated as state agents, can commit. All rules are constitutive, so even breaking the rules moves a state further from what is recognized as a state and toward a different status, such as a militant group, a failed state or a micronation. But at the very minimum rules of recognition and interpretation pertain also to these other statuses, which is why Sealand passports are not recognized anywhere and Somalia remains a state despite almost totally lacking 'state capacity'. International society is not just a comprehensive

system of rules; it is a totalizing system of rules. It even extends into outer space, which is beyond the reach of most states anyway. When a frontier to this totality becomes apparent, implying that something could escape the purview of these rules, it becomes taboo (Wendt & Duvall, 2008). Any material that can be made subject to the rules of international society has been, is and will be.

The totality of international society as a normative political order extends beyond spatial dispersion and possesses a processual, temporal aspect as well. That is, this network of rules applies not only to the static aspect of what political kinds there are, but also to what kinds of activities are thinkable and how to think about them. The rules penetrate practices even more deeply than states of being because they determine how acts are to be interpreted *and* how acts are to be performed. Just as rules inform what counts as diplomacy or war, they also provide for the repertoire of how to act diplomatically, how to structure action to make it seem more like war, terrorism or espionage. And deviance is also covered by this processual aspect by virtue of the capacity for habit to acquire the status of rules: deviance from a rule of international society over time, such as non-intervention or the sanctity of civilians, can yield a new rule with a new normative basis for recognition and interpretation. There is no normatively neutral activity; each act, to the extent that it can be characterized as an act of state, also erects, reinforces or weakens international rules and, by extension, what states are. Just as it is virtually impossible to find a place to which the rules of international society do not apply, it is difficult to imagine a future when they will not apply or how one would get there from here.

If it be accepted that all rules that apply to states constitute them, and there is very little indeed to states beyond rules, we can proceed to consider national and international rules. When looking for rules that constitute states, it would seem logical at first glance to consider their internal constitutions, which could refer to actual constitutional laws as well as their more particular and implicit principles of internal organization. This impulse, however, would be misguided for the purpose of learning anything about international society. The rules that constitute states internally will reveal quite a bit about the national society, but such rules display far too much variation for them to provide much information about the character of

international society. States currently in existence include monarchies, theocracies, secular dictatorships, authoritarian oligarchies, liberal democracies and mixed types. Their constitutions range from Britain's vague doctrine ostensibly reflected in dozens of sources but centrally compiled nowhere to India's behemoth of a single document extending to 448 articles. States can spend up to a fifth of their wealth on their militaries or virtually none. Some states can manage virtually without taxing inhabitants, and others leave inhabitants with virtually no property to tax. There are certainly states whose national societies are similarly constituted, but that would indicate merely a multiplicity of common qualities, not a shared quality. Such broad variation indicates that there is very little constraint on how a state can be organized internally. An empire that dominated an entire planet could take virtually any form internally. From an international perspective, the content of 'domestic' rules might as well be arbitrary.

To determine the character of international society, one must look at international rules. International rules are much more informative about the nature of international society for two reasons. First, they compose a whole in the form of international society as opposed to manifold national societies. This aptly parallels the variety of the rules that compose states domestically. This congruity is also more than mere coincidence, because international society comprises shared, not just common, rules (Wendt, 1999b). For example, the rules governing citizenship can vary widely by national jurisdiction, and these tell us little about international society, but there also is a concept of citizenship and attendant rules that apply across jurisdictions, which is far more informative. Of course, states can devise rules that apply only to a subset of international society, as is the case with non-universal treaties or special custom, but these particular rules are subject to general rules of recognition to be valid (Hart, 1994). And the primary rules that constitute what a state is in general also apply generally. There is not a Bolivian law of war, a Qatari law of treaty recognition or a Malaysian doctrine of territoriality.

The second, and probably more important, reason that international rules are more informative about states and international society is because they arrange states in relation to each other. It is when normative worlds bump up against each other that

they encounter constraint and the jurisgenesis of constitutive rule formation occurs (Cover, 1983-1984a). Without territorial adjacency a state could simply fade out into nothing at the margins, which would dissolve the constitutive attribute of territoriality, but where two states meet, they erect borders, which regulate activities and constitute the territoriality of the states on either side. This is analogous to Deutsch's argument that the probability of international law increases as diversity among states and the density of their interaction increase (Deutsch, 1968), but it is more fundamental because of the correspondence between regulation and constitution. Multiplicity is only possible when there exist rules to divide the whole into parts and distinguish them from each other. Before a comparison of internal rules is even possible, there must be relational rules to distinguish internal from external. States are made of rules, but the character of the society they jointly compose is best determined by the rules that apply among them, not by the rules that apply within them, which inform primarily about the societies they severally compose.

There is another, perhaps more illuminating, way to express this idea. Since international rules constitute states, and states are composed of rules, international rules constitute each other. They co-determine each other. A rule giving states territoriality on the surface also impinges on rules that determine ownership of subsurface resources, the airspace above the surface, maritime space adjacent to the land surface, the status of people born on or currently occupying the surface, and even to the circumstances when war will be declared and what counts as right and wrong. International society is an ecology of rules (Haas, 1983, pp. 23-26; Hughes, 1936), and just as the forms of biological species give them abilities that determine the requisite abilities and forms of their predators, prey, and competitors in a natural ecology, the form of any given rule will depend on the characteristics of all the others.²⁴ And though any two given rules might not impinge on each other directly, they are all linked by the fact that they all constitute a common whole. Because international rules determine what states are, making all rules constitutive, no rule

²⁴ This depiction might seem to focus on rules and social structures far more than on agents, but if structures can effectively constrain agents from innovating, they will be condemned to repetition. The more the structure demands repetition, the more negligible the role of agency (A. Abbott, 1995).

can be expressed without at least implicit reference to others. Indeed, this thorough system of constitutive interconnections, which leaves no subset of international rules as a self-contained normative order separate from the others, is what makes 'international' thinkable as a seemingly coherent category in the first place.

International society consists of states, and states consist of internal and external rules, but if we are interested in the character of international society in terms of the international rules, which are always constitutive, the focus must be on external rules, and these rules condition each other in a sort of ecology. That's what international society *is*, but the goal here is to determine what it *means*, if anything. Leaving the concept at the level of rules can only yield meaning in the sense of jurisprudential interpretation, restricting the evaluation to their pedigrees, applicability, functions and so forth. But all of these formal characteristics are consistent with reality as well as simulation, so the concept of international rules must be translated into a form that allows for the rules' particular form as well as the general content of international society to be analysed. For this purpose, we must turn to semiotics.

Sign language

I have examined various conventional meanings of international society and characterized it in abstract terms. The goal, however, is to evaluate the meaning of international society in light of the concept of hyperreality, but the two concepts are still incompatible. Hyperreality is a state of radical alienation and representational surfeit, and international society is an ecology of rules, so the connection, or even the possibility of connection, is not yet obvious. To render these two concepts compatible, I must explain the semiotic structure of international society. Semiotics is the best means to connect the two seemingly disparate concepts for two reasons. First, as will become apparent, the structure of international society is not just similar to a semiotic system but uncannily so. Second, and coming from the other direction, Baudrillard developed his concept of hyperreality with the aid of semiotics, and it

could even be described as a certain type of semiotic system.²⁵ So, if international society can be characterized as a semiotic system, then it should be fairly straightforward to assess whether it conforms to a given type. But before presenting the argument that international society is amenable to, if not begging for, semiotic analysis, a brief introduction to semiotics in general is in order.

The basic unit of semiotics is a system of signs,²⁶ and a sign consists of two parts: the signifier and the signified. The signifier is the part that 'carries' the meaning and is used to represent something else, and the signified is that which is represented (Peirce, 1955).²⁷ Importantly, these are merely two aspects of the same thing, the sign, and they cannot be separated while preserving the sign (Saussure, 1966 [1916], p. 103). This does not imply, however, that everything is a sign with signifier and signified aspects to it. There is no English word for embarrassment felt in sympathy, which is known in German as *Fremdschämen*, nor is there a German word for the quality of being no longer thirsty, which is known in English as 'quenched', but speakers in each language know the sensations and so have potential signifieds without adequate signifiers and, therefore, no sign. Equally, 'oystergods' and 'millennium hand and shrimp!' are legible and potential signifiers, but they have no semantic value because they have no signifieds; they denote nothing.²⁸ Semiotics is

²⁵ Semiotic systems are often referred to as 'codes', but I avoid the term for two reasons. First, a 'code' seems to imply more closure than is warranted, but systems can be open or closed. The degree to which international society interacts with other codes, like language and perhaps various aesthetic codes, is an interesting question, but one that need not detain the current discussion. Nonetheless, careless language should not prematurely foreclose the possibility. Second, the discussion already includes enough unfamiliar terms to disorient the reader, and further synonyms will probably not improve the situation.

²⁶ There are two common objections to this statement. One is that the basic unit is the sign, but this cannot be the case because a sign in isolation cannot have any meaning, as will be demonstrated below. The second objection is that the basic unit is language, and this parallels the debate of whether linguistics is properly a sub-discipline of semiotics or vice versa (Tyler, 1978). Given that language can be described in general terms as "a system of symbols which we know and use" (Stainton, 1996, p. 1), there seems to be little substantive difference between the two.

²⁷ There is a bewildering variety of terms used to denote these two aspects of the sign, including representamen (signifier) and interpretant (signified), symbol (signifier) and referent/object (signified), among others. I have opted for signifier and signified because they are the terms of Saussure, who effectively founded semiotics as an intellectual pursuit, as well as Baudrillard, whose work plays a considerable role in the evaluative portion of this research.

²⁸ Joyce's *Finnegan's Wake* and Terry Pratchett's *Foul Ole Ron* provide a wealth of examples and are the sources of these two, respectively.

the study of systems of signs, and signs consist of signifiers and signifieds, necessarily and by definition.

Another remarkable quality of signs is that the relationship between signifier and signified is, in almost every case, arbitrary.²⁹ It is a simple point to grasp that virtually any signified could be represented by any other signifier than what is actually the case, and the simple proof of this is that most words in a modern language will have equivalents in other languages. Therefore, there is nothing inherent in any word as signifier that connects it to its signified; 'apple' as a signifier is no more and no less connected to the fruit than 'pomme' and 'Apfel'.

The arbitrary nature of the connection between any signified and its corresponding signifier raises a profound problem of identification: if there is no necessary connection between the signifier and signified, how is it possible to recognize any sign? How can anyone know a sign to be what it is and not something else? Simply, if identification is not a matter of essence, it is a matter of difference (Doty, 1997, p. 378). In other words, the 'vertical' relation of a signifier to its signified is incidental to the sign's denotation, but the 'lateral' relation of signs to each other is what makes it possible to differentiate, and in consequence to identify, signs. It is only by virtue of the difference that prevails between signs that we can identify any one of them. In Saussure's words, "Signs function ... not through their intrinsic value but through their relative position" (Saussure, 1966 [1916], p. 118).

The fact that signs are identifiable primarily with reference to each other instead of through an inherent connection between signifier and signified has momentous

²⁹ The exceptions include what Barthes referred to as motivated signs and Saussure referred to as 'symbols' (1977a), which are cases where the signified imposes some inherent constraint on the signifier. The European 'exit' signs, showing a stick figure rushing towards a door, would be an example where the range of possible signifieds seems constrained by the signifier. Similarly, it seems sensible that a portrait of a given individual, say, Queen Elizabeth II, must bear minimal resemblance to the actual woman. However, Orticanoodles, an Italian graffiti artist, has painted recognizable portraits of the woman that are considerably distorted, so one wonders how much the resemblance can bend before it is broken. Also, in terms of being able to refer to the woman in speech, her name is also an instructive example. Until 1917 Elizabeth II's family was known as 'Saxe-Coburg and Gotha', and it was only changed to 'Windsor' in response to anti-German sentiment in the First World War. So if a very twisted pictorial representation is still recognizable as the woman, and the name of her family could be changed at will, making it difficult even to say who or what any portrait is exactly representing, one must not overstate the scope or fixity of motivated signs. Onomatopoeia is another potential exception, but babies and animals, like roosters, frogs and ducks tend to say different things in different languages. Arbitrariness is the rule.

implications. I mentioned one above without explaining it; namely, that the fundamental unit of semiotics is a system of signs rather than an individual sign. No differentiation is possible with a single, isolated sign, so it is not even susceptible to identification. A single sign can no more exist than a single number. As a result, signs must be analysed in light of the system they compose. The system precedes the units; syntax precedes semantics. This also implies that a sign's proper definition consists of its relations to other signs. Just as a chess piece is defined by its abilities and positions relative other objects in the game, the value of a sign is constituted by its relations to other signs (Saussure, 1966 [1916], p. 110).

That semiotics examines systems of signs, rather than just multiplicities of them, also implies that there are rules about how signs can be joined to produce meaning. In linguistic terms, these rules are known as grammar, and they describe how signs can be combined in intelligible ways. These rules tend to be products of accidental historical development rather than the result of deliberate design (Saussure, 1966 [1916], pp. 71-73). There are reasons beyond historical regularity for this resistance to will. First, a system of signs also represents significant sunk costs, and reconfiguring it while preserving its utility for conveying meaning, even if the meaning is only simulated, will be considerable. More fundamentally there is a problem of recursion in that changing the system would require reference to the existing grammar, because any changes would have to be expressed in the existing vocabulary, which limits the range of change to what can be currently represented and communicated. The final reason for their resistance to change applies only to social systems as opposed to idiolectic systems, which pertain to a single subject. In any system of signification, the connection between the signified and the signifier has to be cognitive in order to be effective. Because there is nothing inherent in the relationship between signified and signifier, the sign can only exist as a mental representation, even though both the signified and the signifier can each have a physical existence. In social systems, this correspondence of signified and signifier, the sign, is an idea many subjects must share; that is, signs in social semiotic systems are intersubjective. However, it is not a straightforward prospect for any subject to change a sign, let alone a system of signs and its attendant grammar, for herself and all the other subjects. For fundamental representational elements of cognition, an

intersubjective structure might as well be objective from the perspective of any one subject (Saussure, 1966 [1916], pp. 73-77).

This depiction of semiotic systems as intersubjective cognitive structures that resist quick or wilful change is unfashionably structural, which is to be expected from the approach that initiated the wave of 20th century structuralism that swept through several social sciences.³⁰ However, it is still sensible to consider the function of the structure. Just because a structure is overwhelming and arbitrary does not necessarily imply that it is also useless. Semiotic systems are often described as means of communication, perhaps even providing for the very possibility of communication (Baudrillard, 1985; Tiefenbrun, 2010), and this is certainly the case. Signs *are* necessary for communication, but more fundamentally, they are also required for representation. Representation is prior to communication because in a sense, it allows communication with oneself. Because things in themselves are not available as objects of thought, cognition relies on representations of things (Bauman, 1968b; Peirce, 1955). This applies doubly for social kinds and abstractions that have no material existence, because these signs are, of course, composed of other signs.

Another derivative, but no less remarkable, aspect of semiotic systems and grammar is their capacity to motivate behaviour. Meaningful signs comprise signifiers that relate to real signifieds, and they can be combined in various ways for various ends, so they can condition apparent availability and attractiveness of means as well as the form in which ends are expressed. The relationship between a system of signs and behaviour can be more or less trivial. Superficially, signs can express simple imperatives, as in the case of a stop sign, which self-evidently exists to induce traffic

³⁰ This raises the tedious but unavoidable question as to what structure is and whether the dynamic ontology here is to be considered structural or post-structural. The ontology is certainly structural in the sense that the arrangement of parts determines their qualities more than vice versa, so that in the chicken and egg question of agency and structure, the verdict is that the answer is contained in the structural relation of birds and eggs as parts that are bound together such that one can hardly consider them separately. I understand the difference between structuralism in the sense of Levi-Strauss and post-structuralism to be in the former's intimation that the observed structures are inherent and perhaps timeless features of human reality and latter's view that they are products of given historical circumstances without clear boundaries or internal systematicity. This distinction would leave the dynamic ontology decisively on the side of post-structuralism, even though the particular historical process has taken on a theoretically irreversible trajectory, which means that contingency is easy to overstate. Insisting on the inclusion of the present research in one category or the other, however, would display greater vanity than principle.

to stop. However, signs also indicate a certain regime of interpretation, a system that has to be used consistently in order to remain useful. To proceed with the traffic example, a stop sign is also indicative of a traffic control system, and the stop sign requires that system to retain its intelligibility. Further, these regimes of interpretation can indicate a belief in an authoritative instance that maintains this grammar.³¹ That is, the existence of a traffic system that relies on arbitrary signs to function can also indicate a collective commitment to the authority that declares and enforces the value of such signs. With regards to behaviour, a single sign, like the stop sign, can signify an immediate signified in the form of its imperative action, but the entire system that provides the particular sign with its intelligibility also indicates a belief in the authority that maintains the stability of that system. That signs can indicate people's motivations at such different levels is further evidence that the system precedes the sign, because when signs are allowed to speak for themselves, they can say many things simultaneously, and determining what they signify depends on interpretation, which is the act of putting the sign into a context to clarify and distinguish a possible denotation. Indeed, there are very few ends a social individual can think of to which signs and an attendant grammar do not apply, and every thought and action can indicate and draw on several systems of signification simultaneously.

Given that the next step will be to determine the correspondence or, at least, the applicability of semiotics to international society, the remaining question of what can count as a sign is very important indeed. The answers to this question vary. Saussure was a linguist, and despite a few allusions to law and economics, he was mostly concerned with semiotics as a mode of linguistic analysis. Lacanian psychoanalysis integrates semiotics heavily in the mirror stage, from which the objectivized image of the self emerges, as well as in the structure of the unconscious and the ontology of the symbolic order, which, with considerable simplification, comprises the possible

³¹ The apparent exception would be idiolectal systems, but even these can display more commitment than pure efficiency concerns would suggest, leaving the question about belief in higher authorities open. For example, many adults will continue certain family traditions that they learned in childhood even if they do not particularly enjoy them and when their parents are not present. In terms of states, the equivalent would be archaic signs that are maintained for no apparent reason other than their *iconic* status. Examples would include America's 2nd constitutional amendment or the preposterously impractical uniforms of the Swiss Guard.

interactions between the self and the external world (Nobus, 2003; Žižek, 2007). Barthes was perhaps less totalizing but even more eclectic in identifying semiotic systems, applying the approach to food, fashion (distinguishing even between actual clothes as one system and photographic representations of them as another), cars, furniture and so on (Barthes, 1977a). This eclecticism is to be expected because designating a thing as a semiotic system is, of course, to apply a signifier to a signified (to designate = to create a sign), and there is no inherent relationship between the signified and the signifier, so the semiotic ontology can be applied wherever it fits. It is one possible depiction among many; the value of this designation depends on its ability to reveal something interesting about the world. This might sound terribly pragmatic and unprincipled, but this argument is frequently invoked in IR. There is no circumstance that demands to be depicted as a game theoretic matrix. The results such matrices and their attendant logic yield are their only warrant, and the proof of the semiotic pudding is also in the eating.³² Any system whose structure is roughly semiotic can be depicted as such, and the value of doing so cannot be determined a priori.

Armed with an analysis of international society and a working definition of semiotic systems, it is now possible to evaluate the applicability of semiotics to international society. One preliminary indication is that others have already used semiotics to analyse international phenomena, especially international law (Bartelson, 1995; de Carvalho, 2011; Kennedy, 1987; Tiefenbrun, 2010; C. Weber, 1995). Although the use of semiotics in international law does provide grounds for optimism, the particular characterization of international society here is fairly radical in that it denies that states can exist prior to international rules, so a more thorough evaluation is needed to ensure that semiotics can work even here.³³ If the only valid criteria to determine

³² Note that this does not imply game theory or semiotics are fictive assumptions whose only value lies in their instrumental utility, as is the case with the frequently used assumption of substantive rationality, because they have the virtue of potential structural similarity to the object in question *in addition* to their instrumental, epistemological utility. In other words, the substantive rationality assumption can only potentially be precise with little chance of ever being accurate, but game theory and semiotics can achieve varying levels of precision *and* accuracy.

³³ Many would argue that this is effectively the argument of mainstream IR constructivism, which would sap the claim of radicalism. However, many mainstream constructivist theories do not take their own ontology seriously and opt to treat states as coherent, discrete symbolic wholes as soon as it

the logical applicability of semiotics to a given system are its structure and the utility of doing so, establishing structural correspondence is the next task, and the utility will have to remain in the eye of the beholder.

The first definitive element of international society described above was its immateriality, which is necessarily a function of it being composed of states, which themselves are composed of rules. Because semiotics describes systems of signs, which are unions of signified and signifier that exist cognitively, semiotics is eminently compatible with the immateriality of international society. With regards to rules as the type of idea composing international society, rules are always a representation of a desired, prescribed, necessary or authorized state of the world, so rules in general would seem susceptible to semiotic analysis. Another feature of international society was the evident but controversial fact that all regulative rules are also constitutive, which implies that rules are co-constitutive and impinge on each other and yields an ecology of rules. This parallels the structural aspect of semiotic systems, whereby identification is the product of difference between signs rather than an inherent connection between the signified and the signifier. Difference enabling identification is precisely consonant with the jurisgenesis that delimits particular states by virtue of relational rules. The primacy of structure in semiotic systems also corresponds to the primacy of international rules to determine what states particularly and international society generally are. The totalizing nature of international society and the fact that its rules can influence behaviour on multiple levels also finds its opposite in the multiple valence of signs and their pervasiveness in representation. The fact that no act can be normatively neutral in international society corresponds to the fact that no change to a semiotic system is thinkable in terms that violate its grammar.

Another important similarity between signs and rules concerns their ontological status and symbolic efficiency. Ontologically speaking, both signs and rules can exist both as material objects and mental representations. A stop sign provides a clear example of a material signifier with a rule as its signified, and the rule is recorded in

comes time to investigate them empirically and to make inferences. Here the goal is to see the ontology through in the empirics and inferences.

material form somewhere as well. However, the ability of the sign or rule to motivate behaviour, its symbolic efficiency, is a result of its cognitive status in terms of subjects' recognition of its place in the semiotic system. In other words, this is simply the banal observation that a stop sign exerts no physical constraint as a material object; its power is in the heads of those who recognize it. And of course, this logic applies to the rules and signs of international society. Even when the signs and rules indicating a border seem to present a physical impediment in the form of a fence or border guards, those responsible for enforcing and respecting the border rules and maintaining the symbolic efficiency of these signs must first recognize their professed place in the semiotic order. Recognition and interpretation affect and effect action; the materiality of signs does not. So, while the theory presented here is relatively structural, there should be no mistake about where this structure is located. Semiotic systems, and social rules *as* semiotic systems, are primarily cognitive structures, and this similarity is necessary in order to consider international society a semiotic system. The shoe clearly fits, but we're not quite ready to wear it.

One important aspect of semiotics remains open: there has been almost no discussion of meaning yet. Traditional semiotics analyses the meaning of a sign with reference to its denotation(s) and its connotation(s). Denotation refers to the synchronic, literal relationship of a signifier to a signified with minimal contextual reference, while connotation situates the sign in its cultural context, the historical grammar in question, though the distinction can be easily overstated. Hyperreality, however, describes a semiotic system in which signifiers become decoupled from their signifieds and the system's capacity to contain and communicate meaning dissipates. Given that international society consists of innumerable rules treating such a broad range of various aspects of life and such a large number of people engaged in analysing, elaborating and reforming it, the idea that this semiotic system has lost meaning is profoundly counterintuitive. If these ideas and this activity have no meaning, what could these people possibly think they are doing? Saussurean semiotics is a helpful tool, but it is bound to a concept of language where a field of words map more or less neatly onto concepts. This provides a helpful synchronic ontology, but there is more to how international rules have composed international society and the world subjects experience than a coherent system of signs and

corresponding signifiers, so the ontology and implications of international society would remain incomplete. Therefore, we must think about meaning in terms of existential and ethical value rather than mere semantics.

International society and the corruption of meaning

So far, I have argued that international society is the topic International Relations studies and an apparently momentous concept among laypeople as well, that it consists of rules and very little else, and that the normative order these rules compose has the structure of a semiotic system. The point I am trying to make in this book is that international society is hyperreal, which is to say that it is a simulated reality where the coordinates of meaning have decomposed. Though already oft repeated, this claim still means very little because it compounds the abstraction already contained in the concept of international society with unfamiliar, exotic and equally abstract terms. To make the claim intelligible, credible, and interesting, several steps remain: 1) to explain the concept of hyperreality; 2) to relate it to international society; 3) to explain how one can discern the semiotic character of international society and how it changes over time by observing it; and 4) to explain how international society came to be the way it is. Steps 1 and 2 remain on the agenda for this chapter, the next chapter will cover step 3, and step 4 will be the topic of the rest of the book.

Before discussing why the hyperreal character of international society matters, and it does, let us first establish what hyperreality is. And, in true semiotic fashion of determining meaning through difference, let us first examine what hyperreality is by considering what it is not, which entails contrasting its meaning here with other (rare) uses in IR as well as with three other types of semiotic order based on other types of value.

Though others have made use of the concept of hyperreality, Jean Baudrillard elaborated it most thoroughly. Unlike many of his contemporaries and foils in 20th century cultural critique and social theory, such as Foucault, Derrida, and Deleuze,

Baudrillard has left virtually no footprint on thinking about international relations.³⁴ This is, however, understandable because his project was to explain how 'capital' has destroyed meaning in consumer society by decontextualizing, trivializing, and perverting images, so plenty of interpretation and adjustment is required for application to the phenomena of international relations. Capital will not figure prominently here because it begs the question of its own agency. Capital tends to be depicted in Marxist literature as a structure with the capacity to oppress as well as a more or less deliberate and opportunistic will to oppress. And whereas Baudrillard was primarily concerned with physical objects, their medial representations, and the social consequences of both, this work will focus on the rules of international society, the things those rules (ostensibly) refer to, and the social and moral consequences of both. Consequently, it would be more accurate to consider the depiction here a fairly novel theory of how meaning applies to political phenomena inspired by Baudrillard rather than a faithful reproduction of his ideas directly applied to IR, if such a thing be possible.

Der Derian and Weber provide notable exceptions to the neglect of Baudrillard in IR. Der Derian uses the concept of simulation/hyperreality³⁵ in a few contexts: first, to depict how models of international relations, especially those of the 'neo-neo' family, often supersede the reality they are meant to depict (Der Derian, 2009b, 2009d); and second, to describe how the American military industrial complex becomes increasingly divorced from the realities of its violent practices through increasing use of technology to create virtual simulations (Der Derian, 2009b, 2009c). Both applications are appropriate and insightful as far as they go, but they seem to take Baudrillard's language too literally in restricting the concept of simulation to actual, literal simulations in the form of models of reality that were deliberately conceived as models. Not only does such a conservative use of the concept seem to miss much of its potential, given that Baudrillard applied simulation to consumption goods,

³⁴ For a very short and serviceable introduction to Baudrillard and IR, which is largely consistent with the depiction here, see Debrix (2009).

³⁵ Baudrillard uses 'simulation' and 'hyperreality' synonymously and equates them repeatedly (Baudrillard, 1985, p. 128; 1993, p. 2; 1994). I recognize the synonymity, but I prefer 'hyperreality' because it seems easier to overstate the amount of agency involved with 'simulation'. Whereas 'simulation' has a verb form 'to simulate', there is no verb form of 'hyperreality', which is more ontologically accurate.

social imaginaries, and political-economic orders, but it also seems to assume unwarranted closure on the part of the systems in question. Although it is plausible that a military's simulation technology affects its representation of reality, and this might affect its practice, restricting the inquiry to the military neglects its effects on, and connections to, the state, mass media representations, and their subsequent effects on reality in general, or more precisely, the resultant hyperreal features of the popular imaginary.

Weber's use of simulation as a concept is much richer, and she applies it with an explicitly semiotic framework to the state and sovereignty (C. Weber, 1995). Her argument is that the state is a sign without a signified and that the identity of signs relating to the state has deteriorated as a result. The theory is sophisticated and the episodes ranging from Concert of Europe interventions to American invasions of Granada and Panama lend it historical depth, but Weber's account also overlooks three important aspects of the how the international is simulated. First, she focuses on sovereignty, which leads her to understate the range of norms that constitute sovereignty, which yields a semiotic theory of the national rather than of the international. Second, she examines situations of great apparent power differentials, which naturalizes those power differentials and underrates the degree to which power is itself a semiotic phenomenon. That is, that presentation ignores how power results from the structure of the semiotic system by focusing only on how power acts on it. Third, and partially as a result of the first two, there is no contrast of hyperreality to other types of semiotic system, so even though it is clear that sovereignty can be a hyperreal phenomenon, it remains unclear whether that is the result of a particular set of historical circumstances or that is necessarily the case in all instances of sovereignty.³⁶ Whereas existing uses of hyperreality in IR have compared it with other concepts developed by other thinkers and applied it to limited contexts, the approach here will be to compare one of Baudrillard's types of

³⁶To be fair, Weber does contrast Baudrillard's simulation with Foucault's power-knowledge as modes of producing truth, and the discussion is enlightening. But since Foucault was trying to describe a different feature of the world with different means, contrasting the two yields more information about the two theories than about the world they describe. Applying one theory more consistently, as is done here, is less informative about the theoretical landscape but more informative about the world.

semiotic systems with others that were developed in combination with it and to apply it to the largest research object social science has to offer: international society.

The focus of semiotics generally and of hyperreality in particular is meaning, specifically of what meaning consists and how it is created and destroyed. The meaning of a sign is indicated by the type of value it has, and this can range from the transcendent type of symbolic exchange value through use value to exchange value, and finally, to sign value, in which signs become detached from the real and lose their capacity to contain or convey meaning. These types of value correspond to different types of semiotic system, symbolic exchange systems, counterfeit systems, production systems and simulation systems, respectively, but symbolic exchange value is too tightly bound to a particular social relationship for it to be very useful to analyse international society. However, it remains useful as the opposite pole of the spectrum and as a conceptual foil to hyperreality. Although the differences between the systems are striking, they are not strictly exclusive of each other in that a system based on one type of value displays signs of predominately that type, especially in large-scale social interaction, but signs of other types are not categorically excluded. It is a question of predominance rather than exclusivity. It is also important to note that what follows is primarily a conceptual differentiation of the various types of semiotic value and the systems to which they correspond, but later I will argue that international society has actually progressed through them through history. However, explaining the concepts and their utility is plenty of material for this chapter, and the historical argument will have to will proceed incrementally later. Finding meaning is work enough for now.

Meaning is complex in that it is semantic as well as ideological. The semantics of meaning are fairly straightforward to the extent that signifiers map directly onto signifieds and the resulting signs can communicate meaning and guide action. Analysing semantics at this level will require interpretation, as ever, but this interpretation will entail standard processes of compiling the message from the denotations and connotations of the signs used and probably some hermeneutic reflection relating to the situation of the author and the message in the context of some more or less particular discourse. For example, when a textbook of

international law states that ‘...in the eighteenth century it came to be generally accepted that the width of the territorial sea should be the same as the range of the cannon’ (Malanczuk & Akehurst, 1997, p. 178,), the reader requires some knowledge of what ‘territorial sea’ denotes as a technical term and perhaps some idea of the function textbooks serve as introductions to specialist discourses and when the book was written, but the manifest meaning of the clause is apparent in analysing it from the perspective of natural language.

The semantics of any semiotic system is going to entail ideological commitments in the sense of prioritizing certain states and interpretations of the world over others, which naturally is going to privilege certain modes of being and doing over others. For example, a world where the unity of the oceans is bounded by territorial seas is going to imply that maritime area and volume is subject to concepts of territoriality, property and patterns of exclusion and privilege. Indeed, any system of representation, any narrative, will include hierarchical aspects of privilege and priority as an inevitable consequence of its selectivity. As long as the semiotic coordinates of the system are fixed, it can serve as a vehicle for meaningful communication as well as to motivate behaviour and is susceptible to contestation and resistance. The ideology *means something*, so the intentions and actions derived from that meaningful basis will themselves be meaningful. In other words, subjects know what they are doing and why and can articulate that with reference to meaningful signs.

The situation is more troublesome when the system has lost the capacity to convey meaning, because the ideology can persist without it. Clearly, an ideologically meaningless system is problematic for two reasons. First, the relations of priority and privilege it entails would no longer have a meaningful basis. In other words, no narrative derived from that system can be about anything, so there is no justification for it, only an explanation based on its persistence.³⁷ Second, the system becomes

³⁷ The ambiguity of the question ‘What is X about?’ applies in several areas, and the idea of two different horizons applying at two different levels of semantics and ideology might be clearer in others. Education, for instance, can be about imparting knowledge or obtaining a qualification at a semantic level in that there will be signs like diplomas and passed exams corresponding to these meanings. But education can also be about things like helping people to make sense of the world, improving their resistance to sophistry or to achieve some vision of society or other, though these

increasingly immune to contestation and resistance because of the lack of fixed semantic coordinates. The system will have become so sophisticated such that the world it represents and the narrative it provides become increasingly elastic, with its component signifiers becoming detached from their signifieds and able to take the form required to perpetuate it. Thus, hyperreality would approximate the society of the spectacle, in which '...ends are nothing and development is all - although the only thing into which the spectacle plans to develop is itself' (Debord, 1994, pp. 15-16,).

The image of ideology persisting and continuing to motivate subjects and shaping narratives after having become detached from meaning is incomplete. This would seem to imply that subjects behave as zombies under the influence of free-floating signifiers despite having become alienated from any fixed coordinates of meaning. What could attach subjects to a semiotic system even in the absence of meaning? The answer is that the hyperreal is seductive, and subjects come to fetishize the relations of status and privilege it creates and maintains. Intention and action are directed at the signifiers and the perpetuation of their mode of valorisation (Baudrillard, 1981). Importantly, this activity is not in pursuit of the represented objects, because the signifieds have already been decoupled from signifiers; it occurs at the level of the code. The system promises an ecstasy of status, but the ecstasy is only virtual because there is no meaningful signified (Baudrillard, 1985, 1993). Therefore, there is no question of zombified subjects or a false consciousness of pursuing unobtainable objects; the hyperreal code of signifiers persists and retains symbolic efficiency even without meaning.

Before elaborating the concept of hyperreality and its effects more fully, the discussion of the scale should begin at the more phenomenologically relatable end. It should not be terribly controversial that utterly meaningful things need not and cannot be signified, but their truth is apparent nonetheless.³⁸ In fact, attempting to signify them actually profanes them. This quality is reflected in various religious

valid meanings have no clearly corresponding sign. If this distinction is clear, part of the task here is to find out what international society *is about*, even though we already know what it's about.

³⁸ Therefore, this concept of meaning parallels Lacan's concept of the Real (Lacan, 1988a, 1988b), but they diverge in that Baudrillard's concept of the real depends on historical circumstances at the level of a society and Lacan's on events in an individual psychic biography and constitution.

taboos, such as the reputed injunction against reproducing the work of Allah in images in certain interpretations of Islam or the ineffability of the name of God in the Hebrew tradition. Indeed, certain emotions, relations and ways of seeing the world resist expression or representation in literal speech or realistic reproduction, which provides the occasion for much non-representational art and expressionistic poetry (Goodman, 1978). This inability to capture the transcendence of meaning is perhaps also why listening to a piece of music, and different recordings of the same piece of music, is more satisfying than simply examining the notation. Although such meaning is always true, it is not always beautiful. The speechlessness induced by atrocity or woe follows the same pattern in that, at some point, the reality is no longer susceptible to representation and any representation comes across as trite.

Closely related to this type of value is the attendant concept of reality. The real here is conceptually very similar to its denotation in common speech in that it consists of actual, existing things, but it contains an additional and burdensome existential implication. In particular, it includes the notion that agency can only ever be personal, so every normative decision is based on an interpretation of this world full of subjects, and each individual is responsible for these interpretations and the resulting behaviour. As subjectivity and agency are attributed to abstract representations, the existential burden of the real is lightened, and the world becomes more hyperreal, more simulated. This also relates to the resistance of meaning to representation. If recognition of subjectivity is a core aspect of reality, and it is clear that no representation can comprehensively depict a subjectivity, then representation and abstraction can actually corrode meaning and reality.

Because such meaning is beyond representation and communication in any literal terms, it is only social when that reality is shared. Social communication of such meaning can, however, be approximated in semiotic systems based on symbolic exchange. A sign has symbolic exchange value when its principal semiotic characteristic is its attachment to a particular relationship (Baudrillard, 1981). That is, it is of little practical use, and even if it has some value as a commodity, this is completely negligible in comparison to its value as a symbol of a particular relationship. Whatever its market value, those who recognize its symbolic exchange

value will describe it as priceless. Because it is symbolic, it exists to communicate but not to store value, facilitate exchange or signify any known type. The classic example is a wedding ring, but they tend to have considerable commodity value, which for some is even decisive. Symbols that are economically worthless but treasured nonetheless, such as a lock of hair or a child's drawing, provide less adulterated examples (Žižek, 2007). That signs possessed of symbolic exchange value can, and perhaps should, be devoid of commodity value indicates another important feature: the choice of the particular sign is arbitrary because it derives its entire value from context. In other words, the signified, the relationship, contains the entire value, so the particular manifestation of the signifier is incidental.

Applying the concept of symbolic exchange value at all, let alone an entire semiotic system based upon it, to macro social phenomena like states and international society is difficult, if not futile. Much of the social interaction at such levels and virtually all representations occur among mutually anonymous subjects, and it is hard to see how such connections could become so prominent as to become the definitive feature of social interaction among strangers. Nonetheless, there are a few indicative examples that suggest it might be possible. The Potlatch gift giving ritual and the Kula circle are famous instances from anthropological research and are purported to reinforce the coherence of the society involved as their primary function (Baudrillard, 1981). In fact, participation in the ritual is a constitutive sign of belonging to the society. Žižek (2007) provides a clue to a more modern example. He suggests that asceticism, if only in the form of taking luxury time for oneself, can be considered a gift to oneself, symbolizing possibly transcendent, but certainly not immediate, priorities.³⁹ Extending this interpretation, one could take Bhutan's choice to measure 'gross national happiness', instead of traditional macro-economic indicators like GDP and GNP, as the country's symbolic gift to itself in devoting institutional resources and policy priorities to values that do not accord with, and perhaps even transcend, the logic of utility, production, and consumption. But

³⁹ Baudrillard was more skeptical about the value of asceticism, considering it in many cases to be mere affectation. In this line of reasoning, Spartan decoration or paying oddly high prices for pitifully small amounts of food in pretentious restaurants is only used to signify status and is to be interpreted in light of the hunger and greed of the poor (Baudrillard, 1981, p. 78). That is, foregoing consumption is really a means of signalling a blasé attitude towards need, utility, and acquisitiveness.

considering how exotic and rare the examples are, it is clear that symbolic exchange value is only to be expected among familiar individuals, if at all, rather than within and among large social collectivities.

In a semiotic system based on use value, meaning is one step less immediate than in one based on symbolic exchange value because meaning is mediated by a sign. This is also the first level on which large social collectivities can be expected to operate. It implies a strict coupling of signifier and signified. The metaphor of 'use' becomes intelligible when contrasted with commodified signs. A sign possessed of use value serves only the purpose of connecting its signifier with its signified without being transferable or exchangeable for other meanings. A commodified sign, as will be described below, can be exchanged with other signs and thus lent other meanings, so there is a looser coupling of signifier and signified. Since use value is based on this tight coupling, it also makes signification nearly superfluous. Uncharacteristically for a sign, if the signified is semantically bound to the signifier, there is near identity between the two and further representation would rather interfere with this semiotic minimalism. There is very little to communicate, and any excess content to be communicated beyond use is not use, but something else. Whereas the type of the sign in the case of symbolic exchange value is arbitrary but the token is decisive, the reverse is true in the case of use value. The particular instantiation of the thing (its token) is trivial, but the type is decisive because anything capable of the same use is interchangeable with any other. The substitutability of any original is why Baudrillard referred to systems based on use value as 'counterfeits' (Baudrillard, 1993).⁴⁰

What makes counterfeit systems based on use value politically interesting is the tight and necessary coupling of signified and signifier. In the case of larger social collectivities, the signifier can be considered a particular role, office, or object and the signified the rules that apply to it, which take the form of duties, permissions, and restrictions that constitute its relations to other roles or objects. Because the signified-signifier relation is fixed, however, the status and its attendant rules have

⁴⁰ The criminal, potentially subversive and conspiratorial connotations of 'counterfeit' are typical of Baudrillard's sense of melodrama (or perhaps that of his translators). I will use the term as well because it is functional and precise, but hopefully a little more phlegmatically.

extraordinary obligatory power. At first, claiming that rules have obligatory power might seem trite, if not trivial, if not tautological. Isn't obligation the point of rules in the first place? But that would only be the case if one could already assume that the meaning of norms were fixed, which implies a normative universe in which there is no normative innovation, only transgression (Baudrillard, 1993). If the signified cannot change for a given signifier, any change, even if it seems like an 'improvement' in historical or emancipatory terms, would be a disruption of the semiotic system, a breach in the order of how things should relate to each other, a dereliction of the proper order. If subjects are in fixed relations to each other because the system provides fixed coordinates to do so, the ideological project can be reliably expressed. The ontology and values it contains are very real because the signs that mediate them cannot be easily exchanged.

The significance of fixity versus variability is perhaps clearer when counterfeit systems are contrasted with Laclau's (1996) argument that the danger of empty signifiers in terms of emancipation is that they can be appropriated to mean anything, leaving those caught under them at the mercy of those with the ability to ascribe meanings to them. The characteristic feature – and danger – of counterfeit systems based on use value is the opposite; namely, that those caught under a sign are condemned to that objective status, and any change is automatically interpreted as a contravention. In that sense, whereas signs bearing symbolic exchange value are transcendent, signs based on use value and empty signifiers are, in rough terms, opposite poles on the same spectrum.⁴¹

Practically speaking, counterfeit semiotic systems will correspond to caste-based and feudal political economies (Baudrillard, 1993). In both types of systems roles are not just assigned at birth but by birth, and social immobility is a definitive characteristic, which reflects the fixity of signifiers relative to signifieds. Applied to politics and international society, one would expect there to be fewer rules and arcane formula of recognition and membership.⁴² This is a result of the clarity and reality of the

⁴¹ This formulation also allows a first approximation of the definition of hyperreality: hyperreality is very nearly, but not exactly, a system containing only empty signifiers.

⁴² This is consonant with Baudrillard's idea that once everyone has a useful thing, it can no longer serve to discriminate or identify, at which point practices become decisive (Baudrillard, 1981).

ideological project. The coupling of signified and signifier alleviates doubt as to how things are ordered and why they are so ordered. The system is in a sense much more self-explanatory. And because the semiotic system as a whole and its ideological project is clearer, fewer rules suffice because everyone knows the spirit of the law, obviating abstract, casuistic, and variable definitions of what rules apply under what circumstances. Sovereignty is an ordained quality that exists to serve a certain purpose, so it can readily apply to individuals, and 'imperfect sovereignty' is just another way of describing some imperial relation of superordinate and subordinate political authority. The rules that do exist will tend to describe this state of affairs rather than regulate it.⁴³ In other words, the constitutive effect of rules will be in their capacity to serve as a manifest description of a world and ideological project whose meaning is fairly clear and broadly understood, if not always uncontested.

Historically speaking, medieval and early modern European international society fits the model of a counterfeit system based on use value. The ideological project of Christendom and realizing a more or less common ecclesiastical vision provided reference points that fixed the signs in relation to each other. The Pope had a given role in more or less definite relation to princes, and princes to lords, and lords to subjects (in the feudal sense). Even in cases of dispute, there was little cause for casuistic debate to establish what the dispute was really about. The rules of international society described this system, and when rules needed to be invented or adapted, there were common understandings as to what principles and to what ends such processes were to proceed.

The fixity of signs denoting objects possessed of use value tends to deteriorate, however, because subjects gradually project passion, fascination, prestige and presumptions about status onto them. Instead of signs being tightly coupled instances of signifier and signified, their definitions are increasingly informed by contingent notions of what counts as prestigious, desirable, valuable (Baudrillard, 1981; 1993, p. 31). In other words, signs are commodified, their value becomes a matter of convention, demand trumps mere utility, and status relations precede any

⁴³ There are strong parallels to the IR school of classical realism, while the functional identity of states and the mechanistic systems of interaction suggested by the neo-neo versions are arguably closer to the production system described below.

ideological project tied to a reference point. Signifiers can be exchanged among signifieds, which also corrodes the capacity of the system to convey meaning. Whereas the semiotic system based on use value allowed one sign to be swapped with another of equal use, the counterfeit, while preserving the fixity of signified and signifier, in a system based on signs' commodity or exchange value, the ability to reproduce objects associated with status is decisive, which corrodes the correspondence of signified and signifier. With the increasing disorientation as to what signs mean, the world they mediate becomes less real. Therefore, the metaphor to describe such a system, where counterfeiting an original is nonsense because the original cannot be identified in any case and signs are produced and exchanged like commodities, is production (Baudrillard, 1981).

The production system is the transitional stage between counterfeit and hyperreality, between obligation and obfuscation. As the connection between a particular signifier and signified deteriorates, signs become less obligatory, and their identification becomes more contingent. However, in order to compensate for the deterioration or imperceptibility of meaning, myths of the production system's origin and narratives depicting the system's ostensible ends are de-emphasized in favour of narratives that give the system a semblance of inevitability and timelessness (Baudrillard, 1993; Umberto Eco, 1986). Although the production system will proliferate signs suggesting its own predestination, it is in fact highly contingent and dependent on the prevailing code. Meaning is neither transcendent, nor obligatory, but increasingly self-referential.

It is a well-worn observation that law constitutes a self-referential normative code (Cover; Hart),⁴⁴ so the significance of the increasing introversion of rules-as-signs might not be immediately apparent. Law as a system of contingent and self-referential social norms is, after all, the core of much conventional thought on the matter. There is, however, a considerable substantive difference between signs that refer to things outside the code, as in the case of symbolic exchange and counterfeit systems on the one hand and production systems on the other. In a word, form takes

⁴⁴ Legal systems based on revelation are notable but rarely considered exceptions. This neglect is likely a corollary of the modern impossibility to countenance revelation.

precedence over function in production systems, which is to say that identification takes place on a *per definitionem* basis. Signs can be exchanged for each other more freely such that the signifiers have only a tenuous connection to signifieds. Progress, as an example of a common and important coordinate in a system, can come to signify freedom, equality, wealth or other abstract and variable signifieds, authority comes to mean responsibility, power, symbolic status and so on, and each of these can in turn signify any number of other things. Signs' value resides in their fungibility, which is why this foundation of production systems is labelled *exchange value*. The connection to a meaningful system of representation dissipates as the ideological project or depiction of the world becomes more autonomous. Because the supply of signs is indefinite, they can proliferate with little constraint, and differences fade. Everything increasingly becomes a simulacrum of everything else (Baudrillard, 1993), and reality becomes elusive. When rules become more self-referential, they serve less to regulate things in an ordained or imperative order; instead, they apparently exist for their own sake (C. Weber, 1995).

The production system characterized the international society of high modernity, ranging roughly from the Reformation until the mid-twentieth century. The world was well on its way to being an extension of Europe, but events in Europe had destroyed the coherence of Christendom as a project and the validity of the signs that had provided fixed points of reference for the ordained order. The state arose as seemingly inevitable and was often presented as an oddly permanent fixture of international society. Signifiers that denoted statehood came and went in waves, each being exchanged for the last. Standing armies, fleets, specialist bureaucratic organizations, flags, anthems, artificially coherent populations, colonial possessions as well as definite rules and privileges served to identify states, and when the exchange value of one was devalued, it was replaced with another and then reproduced throughout the system. The ideological project was simply the pursuit of status by competitively reproducing and expanding the signs of it.

Identification *per definitionem* implies that polities are defined less by their purpose and place in the system, relying more on formal definitions instead, which are easier to produce and manipulate than less contingent objects (Baudrillard, 1993). Arms are

costly, and it may be easier to reconfigure their semiotic status from a sign of power to a sign of barbarism than to invest in more and better objects. Whereas rules based on obligation restrict the range of uses and causes considerably, the production system makes it possible to reproduce goalless states by aping the formal criteria. And a state's existence as a viable sign comes to depend more on following the rules and taking on the trappings of independence than actually embodying an ideological project invested with meaning. The process of formal criteria becoming detached from the things they denote and existing as matters of convention, which depend on social agreement (or acquiescence) rather than on coordinates of meaning that resist contingency, is what Baudrillard meant when he argued that referenda have replaced referentials (Baudrillard, 1993, pp. 62-63).

The increasing reliance on referenda as meaning dissipates applies to moral as well as ontological questions. Whereas polities were formerly often attributed with an exogenous moral purpose, such as practically instantiating the ideal form of Christendom, questions of right and justice are increasingly decided by means of popular vote and other formally democratic procedures (Baudrillard, 1993; Laclau, 1996), which puts the growing universality of democratic governance as a definitive attribute of statehood into a very different ethical context (cf. T. Franck, 1992). When the production system encompasses moral signs as well, one can expect nationalist and other communal metaphysics to fall out of fashion, but because the state requires the nation or some purportedly coherent collectivity to bolster its own apparent inevitability, such signs will persist despite the lack of a discernable purpose in the narrative (C. Weber, 1995; Žižek, 2002). In short, when political institutions cease to have an identifiable use, when they cease to be means to achieve some end, they become ends in themselves and follow a strictly semiotic logic.

This transformation from the singularity of signs to their commodification will progress until exchange value has dissipated entirely into sign value. Whereas exchange value is derivative of use value, and by that virtue has some connection to the exogenous real, sign value is entirely endogenous in that the only indicator of sign's value is another sign (Debord, 1994). The representation of a relationship usurps the relationship it represents: "The sign object is neither given nor exchanged;

it is appropriated, withheld and manipulated by individual subjects as a sign, that is as coded difference ... And it is always of and from a reified, abolished social relationship" (Baudrillard, 1981, p. 65). There is nothing more to be used or that is worth exchanging because 'things' have become superfluous to a system without even an indirect connection to the real. Representation carries all the weight of meaning, but there is no fixity to induce obligation, so the represented reality is weightless. Signification never approaches a meaningful reality, but the activity devoted to signifying accelerates, producing an excess of signification to mask the loss of real coordinates, and the result of this excess is hyperreal. The effectiveness of hyperreal signs lies in their ability to seduce and simulate meaning where there is none. In other words, signs maintain symbolic efficiency while losing any symbolic value. In fact, the signifiers of hyperreal signs are so detached from any signified that there is no chance of incoherence between the signified and signifier, as there would be if the sign represented something real, so they leave the impression of a *trompe l'oeil*, seeming uncannily real without signifying anything, startling with their seemingly excess content (Baudrillard, 1994, 1998a; Umberto Eco, 1986). Despite this impression of immanence, hyperreal signs are emancipated in the sense that they are no longer obligated to designate anything in particular, nor do they obligate. Separated from their referential context, signs become extraordinarily elastic. And though elastic signs pretend to contain meaning, their lack of fixity disorients because it leaves the impression of being at the whim of an external agency, being propelled to act without knowing what the activity really means.

Because exchanging signs is no longer effective, each sign has to enlist others ad infinitum as indicators of its own meaning, so the type of value that underwrites the operation of hyperreal systems is sign value. And because the project is not necessarily directed at producing signs of status as much as maintaining the hyperreal edifice to mask the loss of meaning, the metaphor for such systems is simulation. So what would an international society based on sign value and simulation look like? Rules, as the signifiers of the state components of the system, will proliferate to shore up signifiers that have become disconnected from signifieds. This layer of empty signification becomes ever thicker to compensate. But instead of lending the system meaning, this profusion of rules serves to distract from the lack of

meaning, just as every simulation serves to distract from reality. There is no principle substantiating the rules or coordinating their formulation, and the acquisitive logic of the production system is replaced by a strict representational logic in which rules as signs proliferate because they seduce. Rules multiply as the necessary complement to any problem, but without a project, these rules fail to constitute a substantial, or even recognizably coherent, whole. They tantalize as solutions, but they never satisfy, and the system they compose becomes increasingly distant and focused on its own logic.

The simulated character of sovereignty is clear when applied to territory. Actual possession of territory yields to signs of possession becoming the definitive markers, and since such signs, which might include flags or post offices in remote locations, are much cheaper than the exertion required for actual possession, they proliferate. As these signs proliferate, they also attract paraphernalia of their own, such as centralized bureaucracies to catalogue and administer the signs of possession - without actually going through the trouble of possessing - and this proliferation of subsidiary signs comes to make the simulated possession seem overdetermined. Instead of directing their efforts at territory, subjects in the service of the state devote time and energy to the preoccupation of shepherding the paraphernalia. Baudrillard referred to similar practices relating to consumer goods as 'the moral fanaticism of housekeeping' (Baudrillard, 1981, pp. 45-46). And since actual possession is no longer required but territory, as a sign of sovereignty, is still coveted, there will follow competition for territory that is useless or even inaccessible, like Antarctica and the moon. This acquisitiveness with the goal of signifying status is in effect conspicuous consumption at the level of states,⁴⁵ and its realization follows the logic of the sign rather than of occupation, cultivation or enclosure. And once the logic of representation has replaced acquisitiveness, there will be bureaucracies to regulate the bureaucracies that regulate territory, and the sign value of regulation will make this seem like a sensible solution.

⁴⁵ Conspicuous consumption is the practice of consuming for the purpose of displaying power. It is surpassed by invidious consumption, which has the goal of inspiring envy. Acquiring useless or inaccessible territory might even indicate the latter, but conspicuous consumption is the more conservative claim. For more on the distinction, see Veblen (2007).

The seduction of sovereignty in a hyperreal international society is also apparent in the latest manifestations of violent conflict. It has become a commonplace of IR that internal conflict has vastly overtaken international conflict in terms of frequency and severity (Gleditsch, Wallensteen, Eriksson, Sollenberg, & Strand, 2002; Harbom & Wallensteen, 2005), and the variables mustered to explain this change range from the end of the Cold War to the proliferation of international treaties and norms. However, internal conflict is the only kind that is still ideologically possible, and the simulation is apparent in the signifiers now used to denote warlike activity. 'Intervention' is not 'war', despite the uncanny resemblance; secession is a civil conflict, which it must be to preserve the immutability of statehood; and even in cases where warlike behaviour is justified with reference to self-defence norms, which constitute the only type of war the UN Charter would allow, one side will still have the 'non-state' label attached to preserve the naturalization and totality of international society as a semiotic system.

Although the language of 'simulation' and 'hyperreality' often seems hyperbolic, the case of state death, or rather the absence of it, exemplifies how far international society has regressed from use value to sign value. The first clue is that, although there are frequent references to the obsolescence of the state in the abstract, especially in the global governance discourse, no *particular*, 'real' state can become obsolete, disappear or die. Instead, it is only possible to identify 'failed states', which are holes on the map filled with land and people presumably waiting to be reconstituted as states. Although the standard narrative to explain the existence of states at all refers in terms of use value to their ability to provide people with protection from each other, either individually (Hobbes, 1968 [1651]) or collectively (Waltz, 1954) and perhaps even coercively (Tilly, 1985), the idea that a reconstituted state is the inevitable outcome reveals that this narrative based on use value is bankrupt in reality. The sign of the state has overtaken its ostensible use, so the only way to identify states is, consequently, in reference to other instances of the sign, but not in terms of what they are supposed to do. And this system of rules that determines that states must be, that nothing but states must be, and why is a narrative with very little connection to reality (Aradau, 2010). The fact of survival and the quality of sovereignty are no longer determined from below in terms of why a state exists, but

from above in terms of whether sovereignty as a sign is applied in a given case. The idea of 'shaming' states is similarly instructive. Shaming refers to the practice of publicizing states' misdeeds (Murdie & Davis, 2012), and though it clearly contains an aspect of moral judgement in identifying injustice, the act of shaming itself is only directed at the hyperreal sign of the state, not the reality of subjects. The real criticism would relate to what subjects are doing to other subjects, but shaming a state is not about immoral behaviour but about semantic defects, about the state failing in terms of some abstract, formal criteria. And because shaming is directed at the absent signified, the unjust practice need not change and the signifiers can persist despite the criticism of their semantic qualities. It is less a question of who creates what reality and with reference to what meaningful reference points and more a question of what signs are required to compensate for what semantic defects. The signs have eclipsed the reality they are supposed to represent.

With regard to the apparently progressive character of many recent rules relating to such relatively new regulatory questions such as state responsibility, deliberative justice in 'international decision making' and tribunals of various sorts, which are frequently invoked in shaming, there is perhaps an apt analogue in fashion. Baudrillard discussed a similar tendency in reference to the distinction between beauty and fashion: if truly beautiful clothes were produced, the entire pursuit of sartorial fashion would end, so those involved in that pursuit must constantly reapply the sign of beauty in order to perpetuate their activity (Baudrillard, 1981). Similarly, if the norms of justice were still meaningful, the innovation and proliferation of such norms would cease. Take the rise of democracy as an increasingly popular signifier of legitimate statehood as a case in point (T. Franck, 1992), whose sign value becomes readily apparent in considering the practice of elections in non-democracies. Although these theatrical productions might serve to diffuse some internal dissatisfaction, they are just as often a catalyst for the expression of dissatisfaction, as was the case in Belarus and Russia in 2012, in Iran in 2009, and in countless other examples. Given the instability they sometimes induce domestically and the fact that even democracies will generally continue to treat with whatever authoritarian regime manipulated or ignored their result, their persistence is a puzzle. However, when one realizes that democracy is a sign of statehood and

that it serves to reinforce the semiotic system of international society, it becomes considerably less mysterious. Elections need not signify democracy, and democracy need not signify anything. Simulated elections, however, serve to simulate the reality of statehood, though the signifier is empty. So despite the absurdity of democracy as an indicator of statehood, it is applied and its necessity repeated nonetheless because it serves a purpose in perpetuating the logic of representation. Again, this practice of applying signifiers and the variability of signs in practice need not imply much agency, because just as those involved in fashion must, upon encountering beautiful clothes, abandon their activity or deny beauty, those involved in applying democracy as a rule of international society must either enfranchise everyone or ideologically qualify the applicability of democracy. They do neither because the sign is detached from meaning and fails to obligate.

To recapitulate the range of this spectrum, systems based on symbolic exchange value face the challenge of signifying ineffable meaning, but hyperreal simulations are the capitulation of signification because meaning to them is merely apocryphal. Signifiers in symbolic exchange systems are just superficial representations of imponderable social depths, but in hyperreal systems, there is nothing below the superficiality of the surface.

Before considering the relevance of hyperreality to ethical life and subjective experience, the claim that this spectrum represents a historical trajectory as well as a conceptual taxonomy has left a gaping question of process that must be answered. More specifically, such talk of transitions and proliferation naturally leads to questions about agency: if the system is changing, someone must be changing it. This is true, but trivially so because there is no need for anyone to push the system along this trajectory as an act of deliberate will; the proliferation of signs will suffice for their meaning to deteriorate, and, to borrow a phrase from an old and optimistically liberal view of social order, proliferation can indeed be 'the result of human action, but not the execution of any human design' (A. Ferguson, 1966 [1793], p. 205).

Theoretically speaking, the degeneration of meaning is irreversible, because once the semiotic system is corrupt and the signs have lost their ability to convey meaning, they can no longer serve as building blocks for the reconstitution of a meaningful

system (Baudrillard, 1998b, 2007b). A different set of signs might be able to contain and communicate meaning, but if only dilapidated signs remain, how would one get there from here? The only way out would be to start from scratch. Given the scale of meaning presented here, any change in the system can only imply either stronger or weaker meaning, and semiotic systems generally seem to be subject to entropy as a matter of empirical regularity (Baudrillard, 1985, 1998a). There is a structural-functional imperative associating sophistication of the system with alienation from the real and the decomposition of meaning.⁴⁶ “In other words, there are only needs because the system needs them” (Baudrillard, 1981, p. 82). Of course, whether that applies in the particular case of international society is an empirical question that can only be answered with an evaluation of semiotic history in light of a theory of meaning, which is the present task.

Whereas states were formerly identifiable by their activity, sovereignty was a manifest quality, and rules had the power to obligate, states are now hyperreal signs devoid of meaning, rules function primarily to maintain the simulation of international society, and sovereignty is the label granted to maintain this simulation. Much empirical work remains to substantiate these claims and describe the process, but even assuming they are defensible, there is still the question about why any of this is relevant. If everyone is still able to go about their day and the existential crisis that the hyperreality of international society threatens is just a threat, who cares? In that case, we as citizens should be able to go back to curating our wine cellars and as scholars to counting human rights violations and praising norms. But it does matter. This simulated reality conditions behaviour, and that behaviour has consequences.

To recap...

International Relations contains many different varieties of theory that understand the world the different ways, but the world it is trying to understand and the conceptions that IR has developed of it can all be reduced to the concept of

⁴⁶ This will certainly not satisfy the causality-minded. However, the goal of this project is to argue *that* the history of international society and the discourse about it can be usefully interpreted in light of the concept of hyperreality and to think about some implications of such a reading. So the questions to be answered are 'what?' and 'so what?', but 'why?' would imply a very different exercise.

international society. There is also a folk concept of international society, more frequently called 'the international community', which is not identical to the academic concept but does serve to show that the object of academic study is not a purely specialist construction. On the contrary, it has momentous significance for practitioners of international relations and people affected by, but not necessarily able to affect, this system.

I then analysed international society in general terms. To the extent that international society comprises states and the rules and institutions among them, the concept can be reduced entirely to rules, and these rules are all constitutive because even rules that regulate what social kinds can do simultaneously constitute those kinds. These rules determine what states are, and the field of the international provides for a system in which these rules are intelligible. That is, the rules are intelligible in light of each other, and the meaning of each is conditioned by the meaning of the others, in a quasi-ecological setting.

After a brief review of Saussurean semiotics, I argued that the system of rules known as international society displays a semiotic structure. In both cases, the signified-signifier relationship is itself very malleable, but the relational characteristics of the system allows for identification nonetheless. In other words, the position of rules or signs relative to each other in the system precedes any potential essence of the things they denote. And all rules are constitutive in both cases: in one the determinate relations of one sign to others identifies, and thereby constitutes, the sign, and in the other the rules that determine how states relate to each other determines what they are individually and collectively. Therefore, international society is susceptible to semiotic analysis.

Although international society can be analysed semiotically, this analysis need not be restricted to the literal, face-value meanings that international legal scholarship or norm research would provide. The deeper question relates to the ideological project of international society and how that corresponds to underlying grammars, narratives and ideological assumptions. Baudrillard provides a scale of value that allows for assessment of the coupling between ideology and meaning. This scale starts with the transcendental meaning of an ineffably personal relationship and that

can only be imperfectly represented by a symbol possessed of symbolic exchange value. Such symbols and relationships are not to be expected in macro political relationships. The second level is the counterfeit system based on use value that contains obligatory signs anchored by some external, invariable source of meaning. The third level is the transitional production system based on exchange value, in which any given signifier can refer not only to multiple tokens of signifieds but can also be exchanged among different types of signifieds. The final and fourth level is that of the hyperreal simulation system, in which any obligatory relation between sign and signifier yields to an infinitely malleable system that exists only on the level of signs and detached from the real. International society has progressed through the levels of counterfeit and production and is now a hyperreal system.

So international society is a system of rules without fixed content and that exists for its own sake. They depict a self-contained hyperreality. Seen from the outside, this simulation follows no principles of operation beyond those that allow its own perpetuation. However, there is also a view from inside, according to which the rules more or less coherently structure the reality, and where there is a structured set of rules, there is also the predictable impulse to understand the structure and predict change within that reality. Back on the outside the impulse to reverse engineer this bounded semiotic universe seems destined to remove it even further from meaning: what point could the system possibly have, and what elements could it contain that transcend representation? Still, if we are to understand how international society became hyperreal, we must consider both the internal view of what the subjects who constructed it thought they were doing as well as the external view of what these words and deeds meant for the symbolic content of the system. And this question of how to observe the origins and development of simulated international society from inside and outside is the subject of the next chapter.

Chapter 3: How to see (through) a simulation

The purpose of history ... is not to discover the roots of our identity but to commit itself to its dissipation. (Foucault, 1977a, p. 162)

The last chapter explained what the book is arguing about the world and contextualized that argument in terms of what we think we know about the world. In particular, I argued that the field of International Relations in general is about the study of international society, which is the constellation of states and the rules among them that circumscribes the political world. There is also a less technical conception that goes more frequently by the name of 'international community' to which my argument is also relevant. I analysed international society and found it to be composed entirely of rules that determine the form and substance of states. The structure of rules in international society is very similar to the structure of a semiotic system in structural linguistics, so it is *prima facie* amenable to semiotic analysis. I then presented a scale of meaning ranging from symbolic exchange value, which is ineffable and probably never to be found in mass political life, to hyperreality based on sign value, in which meaning has dissipated and signs/rules are semantically barren. International society has become a hyperreal semiotic system, and this matters because it alienates subjects from meaning, it is a totalizing system of representations that excludes alternatives and it congeals prevailing power relations.

This argument carries some bold implications. For example, the scale of meaning starts from a point where meaning is so powerful it can only be felt but not uttered, it passes through the point of signifieds and signifiers roughly corresponding, and it progresses to the point that the semiotic order becomes self-referential and meaning becomes indiscernible. This implies that we must be able to evaluate meaning while living in a system that has lost meaning. Further, the last chapter argued that the system's ability to contain meaning has decreased over time, so there is also the question of how to recognize and assess change and identify process. The last chapter made many unconventional claims, and before they can be demonstrated empirically, I should first clarify how we can know any of this and what counts as a demonstration. Whereas the last chapter described what the book is about and why it

matters, this one explains how I came to this conclusion and why anybody should entertain it. As much as any analysis implies a reading, that reading must still be legible, and making it legible is the current task.

The explanation of why anybody should invest credence in my interpretation will proceed in three parts from the general to the particular. First, I will describe the general epistemological stance towards knowledge and social science.⁴⁷ In short, this is part of a critical, normative project, and the problems this work is intended to help identify are more existential and processual than technical and analytical in nature, so the value of the work will depend on a shared diagnosis of the problem. This applies to all interpretations in social science, and social science consists entirely of interpretations, but not all of them take the trouble of rendering the terms of the interpretation explicit. Second, I will explain my overall methodological strategy of how to diagnose the hyperreality of international society. The answer is to trace its historical development because our current instantiation of international society has occurred only once, so observing its march through time is the only way to detect variation and perceive difference. Therefore, I require tools to analyse changes of semiotic systems diachronically. Specifically, I adapt historical institutionalism supplemented with genealogy to analyse how signs as a formalization of rules can be studied over time as cultural institutions. But within each type of system, the focus must be on the signs themselves to determine what type of system they compose at any given time. In other words, the diachronic analysis is composed of successive examples analysed more synchronically. The final section, therefore, examines the nuts and bolts of the research process, including what exactly I will observe and interpret. There are several points to cover in this section, including how to divide international society into manageably sized, observable pieces, consisting in particular of three different conventional rules of international society, why those three in particular, what constitutes data, and how to recognize the three conceptual types of value, corresponding to the three semiotic orders, from the observable and interpretable signs.

⁴⁷ The use of the word 'science' should not confuse the reader. I do not use it in the sense of hypothesis testing or applied falsificationism. The German word *Wissenschaft* ('knowledge craft') would be more appropriate for my project, and knowledge, as I argue below, is in the eye of the beholder.

Epistemological stance, or what counts as success?

The ontology presented in the last chapter presents a taxing epistemological challenge. To review, if international society is an ecology of rules, and those rules can be considered in terms of a semiotic system, then there is a clear implication that the world is mediated by, if not consists of, representations. At that level, we cannot even say whether things are what they seem, because it implies that 'seem' precedes 'things', which is to say that there is an unstable connection between appearances and reality to the extent that there is a reality at all beneath appearance. And it gets worse still, because I claim that the relationship between reality and the mode of representation has changed over time and that we currently live in an age where the realm of representations has lost the capacity to contain meaning, so in addition to a means to interpret meaning, we also need tools to detect the hyperreal corruption of meaning. In other words, the central concept of meaning is not only transfactual in the sense of being unobservable (Jackson, 2011), I also argue that it is flawed, and that the flaws are diachronically detectable. To do this, there is only fragmentary historical data, itself replete with second-hand interpretations. In some cases, hubris is folly that brings nemesis, but hopefully it is here only a question of managing expectations.

Even if one remains sceptical about consensus theories of knowledge and protests the injustice of the hegemonic status possessed by other ideas about the world and research traditions that they obtained by virtue of historical accident, the oppositional stance will not solve the problem of communication. The fate of any novel approach is to have to engage with orthodoxy, so the novelty must be rendered in terms the orthodoxy can sensibly accept or reject. Even if the goal is to impart an intuitive understanding, analysis will have to be its vehicle.

Perhaps the easiest strategy to make the job of inferring how the world works and communicating it would be to claim that the ontology has absolute priority. There are two tactics in this strategy. The first is to give ontology precedence explicitly while implicitly making it bend to the desired epistemology. This would be the case if, for example, one claimed that the world is made of ideas, but these ideas can be ordered and manipulated as if they were natural kinds (Wendt, 1999b). The second is

to present a radically destabilizing ontology and to abandon any consistent method, leaving an *episteme* without its attendant *logos*. This is the case when the criteria of what counts as data and the rules of interpretation the relations between them as data are left entirely unexplained (Baudrillard, 1994). Both are unsatisfying.

A better, if more arduous, strategy is to recognize that ontology and epistemology condition each other (A. Abbott, 1988; Bourdieu, 1998; Jackson, 2011), and neither has priority. Any given ontology makes demands of the epistemology. Different worlds populated by different kinds of things will require tailored techniques of observation and interpretation. Conversely, the epistemology imposes limitations on the ontology. Any mode of observation will focus on some aspects of the world to the exclusion of others, and some modes of interpretation will emphasize certain concerns while downplaying others. As a result, there is no ontology or epistemology with which one can start populating or examining the world to be analysed, and there are no criteria for determining the value of a given epistemology or ontology a priori. Constitution through relations of difference is not merely a question of ontology; it also applies to the encounter with anything that can be called 'ontology'.

In each combination of ontology and epistemology, the one must be judged in light of the other, and the value of the combination as a whole can only be judged with reference to some criteria outside of the analysis. That is, the usefulness of a given interpretation is the measure of its worth.⁴⁸ But usefulness is also a complicated criterion because there are also no inherent criteria to measure it. In other words, utility is not an abstract concept; it can only be assessed in the context of a given purpose.

If the value of an interpretation depends on its usefulness, and its usefulness depends on its purpose, then I must also clarify the purpose of this interpretation. My interpretation of the history of international society as a set of signs that motivate people and with which they communicate is not intended to solve any problem on the evening news, nor is it intended to help any subject empowered by symbols of

⁴⁸ Recall the distinction made in the last chapter between use and function. That is, a function is a use predetermined by ideology. The emphasis here on the usefulness of an interpretation rather than its functionality is deliberate.

statehood⁴⁹ to pursue any particular end in existing international society more effectively. With respect to the professional academic discourse, this project follows a long-standing aspiration of many IR scholars to make their own work obsolete (Bull, 1977). The practical purpose is to determine why international society persists, even though nobody seems terribly enamoured of its existence, whence it came, and to provide a critique of this state of affairs. Importantly, this does not include providing an alternative vision of how to organize the world and its people.⁵⁰

This purpose is not only important as a means to assess the work on its own terms, but also to situate it in the context of other social scientific interpretations of international relations. Because the purpose is not to provide a sufficient explanation of a particular range of phenomena, any comparison with other works that claim to do just that is likely to be unsatisfactory. Although historians like Gaddis, Seton-Watson and Weber have produced magisterial causal narratives of how international society in its common sense view, which sees states as more or less coherent social organizations possessed of goals, means and agency, came to be, I narrate a different story with different characters. My story is about people, their communication, the meaning contained (or not) in that communication, and how this makes them act in the world. The ontology locates value in meaning and communion, so the epistemology will focus on meaning and alienation in historical context. Consequently, this book would find more apt comparisons in other works that theorize meaning, alienation and emancipation in historical context, especially as these concepts relate to the state and the society of states. These would include Reus-Smit's (2011) research on how human rights have shaped ideas about the state and international society, Bartleson's (1995) research on the discursive origins of the state, or Marxist accounts of the historical development of international political economy.

⁴⁹ The choice of 'statehood' as opposed to 'sovereignty' is deliberate. If failed states can exist, and if foreign actors can intervene within a target state, and if state death is beyond contemplation, there are cases where statehood can exist in the absence of sovereignty. Sovereignty is part of the signified of statehood, but the state must be ranked higher than sovereignty in the current semiotic system of international society. Although this is a controversial view, statehood would now seem to be the more fundamental concept. This idea will be more fully developed and substantiated later.

⁵⁰ I must exclude this step because to do so would be too much for one book and because certain aspects might indeed not bear analysis or narration. The scale of meaning described in the last chapter, however, provides some indication on where my thoughts would tend.

The category of research that historicizes meaning can be differentiated still further in that it contains both narratives that provide reasons for optimism about the progress of emancipation through history, which would include Reus-Smit as well as Wendt (Wendt, 1992, 1999b) as well as diagnoses of social pathologies in the tradition of Marx and Spengler. Pathologies, however, are not self-evident; they require symptoms to be identified, and utility of the diagnosis will depend on how keenly one feels these symptoms. Following Foucault's quip that 'knowledge is not made for understanding; it is made for cutting' (Foucault, 1977a), the utility of this diagnosis will depend on whether the reader sees the same need for excision as I do. Those at ease with the hegemonic representations of international society and its corruption of meaning and agency will find here only the trivia of yet another alternative reading of history with some ontological innovation and epistemological idiosyncrasy.

To state that the utility and appeal of this research depends to some degree on shared value orientations between author and reader, to the extent that the two are clearly separable, does not, however, imply a license to idiosyncrasy particular to this work. Indeed, all social scientific activity results from some motivation, and that motivation will inevitably include some value-orientation (Jackson, 2011; Puchala, 1995). It seems fair to characterize social science as a communicative social practice (Friedrichs & Kratochwil, 2009),⁵¹ and history has some potential to serve as a curative science (Foucault, 1977a), so it would seem plausible that sub-groups with different motivations informed by different values are to be expected in this overall society of social scientists. Some advocate reification in service of preserving the social order (Wendt, 1998), and others find an element of complicity whenever the status quo is *not* problematized (Bourdieu, 1998). *Every* theory, even critical theories, are in fact problem-solving theories for a given definition of the problem (Cox, 1981), there are just many and often incommensurable ideas about what the problem is. In fact, this range of normative projects and the ability for each representation of reality

⁵¹ That social science is a communicative social practice need not imply a consensus theory of knowledge because if momentous doctrinal shifts are possible, they will often have to arise from *outside* the space enclosed by consensus.

to be problematized from several different directions is a strength of social science as an intellectual pursuit about which many practitioners are perhaps too humble.

A difference of value orientations between current contemporaries in the business of social science is not the only cleavage to consider. My interpretation also involves several instances of more or less thorough re-interpretations of how historical contemporaries saw and represented their worlds and imparted it with meaning, which has consequences for this work's evaluation as well as the methodology required to produce it. This second cleavage is not only temporal. L.P. Hartley's famous quip that 'The past is a foreign country: they do things differently there' expresses well the problem of historical, as distinguished from mere temporal, difference. While it is true any text can be analysed and deconstructed as a configuration of representations in itself, the interpreter must remain conscious of historical distance and how the cultural code from which any text emerges conditions the range of what it can express. Given that very few authors manage to transcend the tone of their culture's discourse (Foucault, 1977b), most texts should indeed be considered vessels of a certain view that was only possible from a certain historical vantage point. Consequently, simply deconstructing the text as a freestanding representation is not enough to reconstruct the meaning of the signs it contains, nor is it enough to reconstruct the cultural context of the representation in an attempt to revive the author. The interpreter must do both: reconstruct the historical and cultural context of the text and deconstruct the text as a representation of that structure.

There is another reason for including both reconstruction and deconstruction in the empirical analysis, and it becomes apparent when considering such interpretation from the perspectives of the original author and the remote interpreter. Any act of deconstructive interpretation requires a certain amount of audacity and privilege on the part of the interpreter. Even if every text contains only references to other texts and there is nothing original to interpret anywhere (Caputo, 1987), very few authors who have sat down to compose a text thought so. They might well agree that they were composing a string of signs according to some kind of code, but the idea that someone culturally, historically, and epistemically removed from them could

understand aspects of their communication and its meaning that eluded themselves might well strike them as presumptuous. There is perhaps no antidote for the presumptuous stance one must assume in order to deconstruct, but there are two ways to alleviate it. First, the interpreter should remain aware that the same rules apply to himself. Even if assuming that privilege allows for a useful interpretation, that interpretation itself is a product of a particular cultural situation, and its expression will be full of sorry compromises for the sake of communicability. Second, the interpreter can invest the effort and empathic resources to reconstruct the original author's vantage point in order to make the view seem less absurd. A vision of international society will contain an ideology, and the interpreter should reveal and problematize that ideology, but the person who composed that vision is also a subject, and if his agency cannot be restored, his intent should at least be sympathetically reconstructed. The distance that remains should be relished, because it allows for an analytical deconstruction in the first place.

This mode of history, which applies a non-standard ontology and depends on a degree of shared normative orientation, might seem like it can only produce a subjective interpretation. That is the case, but it is not a problem particular to this work or style. Every act of historical interpretation and narration is creative and particular to that historian (Carr, 1961; Isacoff, 2002; Levy, 1997). Interpretation and creativity is pervasive in all social scientific analysis and, still more generally, in determining what model or theory to apply when making sense of any event or artefact (Dennett, 1990). Even the 'basic facts' from which a narrative is constructed are not transparent and unimpeachable, as some argue (Thies, 2002). Indeed, once the normativity of history has been invoked, the question of narrative becomes unavoidable.

One conception of narrative in the social sciences depicts it as an analytical construct that helps us to interpret data. Although the data that we can observe about the world are potentially infinite and do not necessarily contain any inherent order, narratives are means of organizing these data in order to make them intelligible (Abell, 2001, 2009). In that sense, these narratives are a means of formalizing the data, of making the relationships evident and generalizable (Bates, Greif, Levi, Rosenthal,

& Weingast, 1998), so they serve a similar function to a statistical model. Also, like a statistical model, the analyst constructs the narrative by ordering the data in a particular fashion, so the analyst imposes the narrative upon the world as an explanatory device.

Another conception of narrative sees it as something that exists in the world for the observer to find and analyse. Here narratives bring functional details, like characters, their attributes, objects and events, into a temporal order or overarching sequential structure, and these structures follow rules and grammars like sentences, which make them open to comparison as well as internal analysis (Barthes, 1977b). The internal rules of narratives have to do with the functions of the representations they contain, and some representations in the narrative bind its future course in a relation of 'narrative necessity' (Bruner, 1991). Just as Chekhov famously quipped that "If you say in the first chapter that there is a rifle hanging on the wall, in the second or third chapter it absolutely must go off" in regards to the narrative structure of a novel, the narrative structure of a democracy, for example, demands a change in government after a lost election or a trial after an accusation of criminal wrongdoing.

Although these social narratives also serve to organize the experience of reality just like the analytical narratives, they are posited to exist as structuring features of society that the analyst discovers and interprets (Bevir & Rhodes, 2006), and they are not morally neutral. One popular conceptualization of narrative in this mode presents discourse as a system of subjective representations and their connections and narrative as an objectified version that effectively obtains the status of a manifest social truth (White, 1980). This concept can be extended such that the story of social reality contained in the narrative not only describes what is and how it came to be, but also what counts as improvement and progress and what as corruption and deterioration (Cover, 1983-1984b). The functional details are laden with moral value and arranged into a teleology. This adds another connotation to the concept of narrative necessity such that, when certain events in the story ought to transpire or developments ought to follow a certain course, this 'ought' refers to the internal logic of the narrative as well as the moral notions of the social actors telling the story to themselves and each other.

That these narratives are morally laden also implies that they politically charged and subject to dispute and negotiation. The fight for narrative hegemony is not just a weak echo of the struggle over material realities. Rather, narratives have a life of their own and are relevant in and of themselves. Capacity-building practices and the possibility to think and act in certain ways result from these narratives and the horizon of possibilities they reveal.

Every narrative involves choosing a cast, an initial incident, which events to focus on and which to neglect, where to transition from one act to the next, which features of the setting contextualize the story, and so on. Just as interpretive deconstruction is premised on the notion that its subject matter consists of depictions of reality whose representational grammar is to be made explicit, every act of such deconstruction presents a depiction of reality with a particular perspective and limits of communicability and intersubjective appeal. One can only interpret as a subject, so every interpretation is bound to be subjective. Thus, even though a narrative begins as a subjective, intuitive perception, analysis is the means to communicate that perception, which, in turn, will not remain a fixed analysed object, but also become a new intuitive apperception.

Epistemological tools, or how to find what I'm looking for

The last section described some suggestions for how to view this research as a contribution to social scientific discourse in light of the nature of that discourse. The section that follows this one will discuss methodology in terms of concrete research design; that is, what counts as 'cases', what counts as 'data' and what to do with them. Between that high level of discursive abstraction and the nuts and bolts of toilsome analysis, there is the level of strategy. I am trying to present a theoretically informed description of a series of semiotic systems, but just as signs can only be interpreted in the context of other signs to orient their place in the system, the system must be put in relation to other systems for the theory to become apparent and persuasive.⁵² Accordingly, this section will briefly describe two general strategies for

⁵² As an aside, Baudrillard's best known book, *Simulacra and Simulation* (1994), is probably also his weakest precisely because it fails to develop these relations as well as many of his lesser-read works. While the common element of J.G. Ballard's *Crash*, the Centre Pompidou and *The China Syndrome* are

analysing social phenomena theoretically, choose the genetic over the correlative, and supplement this strategy with some concepts and techniques of historical institutionalism and genealogy.

The two general logics of combining observations into a theoretical account are correlative and genetic (Foucault, 2002; McCloskey, 1991; Ragin & Zaret, 1983), corresponding roughly to the two strategies developed by the patriarchs of sociology's foundation myth, Durkheim and Weber. The correlative Durkheimian approach consists of identifying a phenomenon, conceptually separating some aspects from others, trying to discover whether these different parts vary systematically relative to each other, and if so, to reconstruct the principles of systematic variation. This strategy assumes the world operates according to the principles of 'general linear reality' (A. Abbott, 1988), such as an ontology of fixed entities with stable attributes that interact to produce outcomes, which also have attributes, and that causal patterns depend on configurations of entities and attributes, but not on factors external to the definition of the phenomenon.⁵³ Because this strategy yields models, in the form of configurations of variables and their systematic variation, that should be valid whenever the specified configuration obtains, the models are temporally portable to the extent that the specifications of the variables remain valid. They are most appropriate for explaining outcomes in similar cases synchronically because each instance of the configuration obtaining is a separate event.

The Durkheimian correlative strategy is also probably the most elaborated in terms of its logic of inquiry and how to structure the process of observing the world and processing the observations. But it is not appropriate here for two reasons. The first relates to the ontological conditions and the restrictions they impose on the type of questions one can ask. If one intends to argue that part of the world consists entirely of rules, that these rules exist in a semiotic structure with reference to each other, and that this structure has varied over time with a range of practical and ethical

their hyperreal characteristics, explaining *how* they relate to each other would be more effective than just declaring *that* they coincide.

⁵³ I could list further assumptions, and all are subject to modification and relaxation, but the further the image of general linear reality is removed from its ideal form, the harder the results are to interpret.

consequences, as I do, then the argument is not about how fixed entities interact in reproducible patterns within a given reality. Rather, it is about what constitutes that reality, how these constituents have changed, and what that means. The argument is simply at a higher level of abstraction.⁵⁴ The second reason why the correlative strategy would be inappropriate here is the necessarily diachronic nature of the argument.⁵⁵ The idea is not there is a repeating pattern in different instances, but that the simulation of international society was centuries in the making. And although each head may contain a different variation of this semiotic system and perceive different components or the same components differently, the historical process that assembled these components and yielded the raw material for narrative construction has happened precisely once. Comparing different episodes in this process will probably be enlightening, but the rationale for doing so would be to better understand the nature of the whole, not to identify a temporally portable model and transplant it between contexts.

Although the well-developed correlative strategy is unavailable, the alternative genetic strategy is admirably suited to the task. Indeed, 'genetic explanations show why it is that a given subject of study has certain characteristics, by describing how the subject has evolved out of some earlier one' (Ragin & Zaret, 1983, p. 742,), which coincides remarkably with the goals elaborated here. The accounts yielded by genetic explanations are not functional models but historically concrete accounts; they are not temporally portable because of their focused attention on historical context. The historical focus also throws the present into relief in that it does not appear to fit a repetitive pattern. Rather, the peculiarity of the present is more evident because of the benefit of historical perspective. And just as the concept of international society

⁵⁴ This should not be read as a wholesale rejection of Durkheimian approaches in all contexts. One aspect of the history that deserves much more attention than I will be able to give it in this project is the how the transition from one type of semiotic system to the next works. A cursory look at the timing of the transitions suggests that that they roughly coincide with large scale, reality-shattering wars, and the inescapability of hyperreality might coincide with the impossibility of such wars. If there is a repeating pattern of violent conflict and qualitative shifts in the type of value under which international society as a semiotic system operates, there might be a systematic relationship that could be formalized, if not in Durkheimian terms, then at least in terms of specifying the principles of variation (Tilly, 1995).

⁵⁵ Büthe (2002) and Fioretos (2011) present some ideas on how to use a correlative logic in diachronic research. The output of both, however, would consist of temporally portable models, but the caveats about the uniqueness of the process and the barriers to interpretability mentioned in fn. 53 above would still apply.

to which this study is directed has a popular and academic expression, genetic explanations serve to highlight the contingency of present practices as well as to problematize the presumption of wisdom in current theories (Buzan & Little, 2002; Carr, 1961). This makes them a better tool for assuming a critical stance relative to the status quo.

There are also reasons to believe that genetic research strategies allow for greater and more explicit integration of philosophical ideas (Bull, 1966; Der Derian, 2009a). One is that, whereas the philosophy of correlative models is often obscurely built into the unstated assumptions that render the model coherent (or not), the only way to engage in a genetic description of a historical process is by means of interpretation, and the subjectivity and self-reflection involved in producing such interpretations is less hidden. That is, the ideology is not contained in unstated premises that might be required for formal reasons of the model's internal logic; it is more visibly present in the construction of the narrative and the choices made in doing so. Weberian genetic narratives also use ideal-types, which are models of concepts rather than mechanisms, to highlight structural similarity and change through the narrative.⁵⁶ Indeed, the four types of semiotic system described in the last chapter are ideal-typical representations of more convoluted representational logics in history. Such ideal-types always entail value commitments (Jackson, 2011), but the value commitments they contain as concepts are more immediate than the value commitments contained in mechanisms, which themselves are more or less precisely defined concatenations of concepts. In mechanisms, the value commitments are obscured once in the concepts and once again in the formal rules of their assembly, but the ideal-types involve only the first removal.

Despite these advantages, the genetic strategy also entails a considerable disadvantage, namely that it lacks the formal logic that guides the composition of correlative models. The genetic strategy is more appropriate for the task at hand, but there is little counsel about *how to do it*. To compensate for this deficit, I will supplement the genetic strategy with some tactical aids developed to research social

⁵⁶ In this sense, comparing ideal-types that were developed in an abstract theoretical environment to empirical records is similar in style to the more conventional practice of comparing certain features of empirical cases to the stylized situations described by game theory.

kinds like rules and their representations: historical institutionalism and genealogy. Both of these approaches are internally diverse and evidence points of divergence and convergence with each other. Whereas “historical institutionalists ... are more likely to be considered with origins rather than the functions of the various pieces’ (Thelen, 1999, p. 382,), for example, which makes its partiality to the genetic over the correlative approach obvious, Foucault, a pioneer in social scientific genealogy, claimed that genealogy ‘rejects the meta-historical deployment of ideal-significations and ... it opposes itself to the search for “origins”’ (Foucault, 1977a, p. 140,). Therefore, some clarification is in order to parse how exactly each can contribute to the current effort and some translation to make the premises of each compatible with the other, but when the theory is evasive and the research object enormous, analytical eclecticism is advisable (Friedrichs, 2009; Sil, 2009; Sil & Katzenstein, 2010).

Historical institutionalism, the more straightforward of the two approaches, itself has two variants. The first sees institutions in terms of incentive structures that constrain the range of choices open to rational actors (Büthe, 2002; Fioretos, 2011), and the second considers institutions to be vessels of culture that structure action by constraining the range of different ways a situation can be understood (A. Abbott, 1988, 1995; Hobson, 2002; Jackson & Nexon, 1999). The constraint view of institutions uses them to explain how actors choose within a fairly consistent structural context, like what features of the situation explain the stability of certain technical standards, especially when these standards seem counter-intuitively irrational. As such, it is a means of developing a correlative causal model to account for outcomes and adding a temporal dimension to these accounts. The cultural view of institutions is less concerned with actors’ moves in a given reality or the efficient causes of outcomes, or with developing covering laws in a context of event-based history as Riesch (1991) has labelled it. Rather, it focuses on how cultural institutions concatenate to constitute the reality actors experience. This recommends it for a study on how rules constitute different kinds of reality. It also indicates an initial point of convergence with genealogy, which is not interested in the relative efficiency of various potential causes as much as the relative thinkability of various modes of representation (Vucetic, 2011).

Historical institutionalism, as a variant of historical sociology, also suggests a theory of history without falling into one of the common traps. The metaphors of 'scripture' and 'butterfly' aptly describe these traps (Hobson, Lawson, & Rosenberg, 2010). History as scripture refers to the view that the historical record is a catalogue of hard facts that impart timeless lessons to the careful interpreter. History as butterfly, on the other hand, is the view that the historical record narrates a story of radical contingency in which dramatic changes of course are possible at any moment. Historical institutionalism avoids both. Its conception of history is one of overall stable trajectories, which can be a result of sunk costs in the rationalist variant or the resistance of expansive cultural structures to change in the cultural variant, punctuated by periods of relatively rapid and profound change. To the extent that these accounts are in fact historical and not merely temporally remote, they avoid the history as scripture trap by contextualizing past phenomena in the structures constituted by past institutions. And because they conceptualize institutions, and by extension the subjects acting in them, as products of their time and in which radical and rapid change is a seldom occurrence, historical institutionalist narratives also avoid the butterfly trap.

Historical institutionalist narratives contain static and dynamic phases. This duality also recommends this technique for the present narrative, consisting as it does both of persistent types of semiotic system characterized by a certain type of value and then relatively brief shifts from one type of value to the next. There is, however, considerable disagreement as to the relative importance of the periods of stability and the breaks between periods. There is a coherent argument that the focus should be on the static phases, since conventional wisdom in social science and the idea of history as distinct from temporality both suggest that change should be more common than stability, and the periods of continuity will simply span a greater amount of time than their interruptions. Further, if there are particular theoretical reasons suggesting that a *certain kind* of stability is counterintuitive, then this would be all the more reason to focus on these periods where reality appears out of place. Because these periods of stability act as a brake on contingency, giving history the appearance of being on a certain path, the theories to account for them are generally referred to collectively as path dependence.

Although it does imply stability, path dependence does not imply the absence of change. On the contrary, a historical period characterized by path dependence can display change, but that change would be in a particular direction or of a particular type. It could well be, for example, that meaning decomposes within the span of the period of the production system, but that system is still coherently identifiable by the dominance of exchange value. The point, then, is not that a system in a period of path dependence is static, just that the range of contingency is relatively diminished. To the extent that the restriction on contingency indicates a reduced role for agency, path dependency in particular and historical institutionalism in general assume a fairly structuralist view of history (P. Hall & Taylor, 1996), which is another mark of its compatibility with the theory as proposed.

As to what actually accounts for the stability of path dependent historical processes, there are several ideas, but they can be roughly divided into those focusing on the subjective aspect of choice or the social aspect of culture. The choice explanations would include recourse to the mechanisms of increasing returns, in which the benefit of a type of choice increases with its frequency (Arrow, 2000), and positive feedback, which is when instances of a certain choice being made increases the positive externalities that could induce others to make it (Page, 2006; Pierson, 2000).⁵⁷ The cultural accounts, on the other hand, include self-reinforcement, in which case a given development catalyses other complementary institutions or forces, and lock-in, where the sheer volume of people already committed to an institution make alternatives impractical or implausible (Page, 2006). Of course, which of these is identified in any concrete case is likely to be largely a question of data availability, emphasis and interpretation on the part of the researcher, and they are not mutually exclusive in any event. In terms of the decomposition of meaning, however, the choice-based explanations are an uneasy fit for several reasons. First, the question at hand relates to the representation of reality in which choices are made (or made superfluous). Second, the metaphors of cost and equilibrium they necessitate have ambiguous implications in the context of a semiotic structure: although it is not clear what these metaphors imply if signs are the research objects of interest, the idea that

⁵⁷ These concepts are useful for the clarity of the distinction, but many economists would conceptualize increasing returns differently, as would many cyberneticists with positive feedback.

the costs and benefits accrue *to signs* might have some measure of poetic and heuristic validity. Even though the more culturally oriented accounts fit better, they seem sadly trivial. The interrelation of cultural artefacts and their objective status from any subject's point of view are not explanations of culture so much as preconditions for any kind of cultural institution to be intelligible and durable in the first place. The stability of path dependent periods in the case of the meaning of international society, therefore, requires a different source if it is to say anything of interest.

To identify the source of stability in this particular description, the first step is to be true to its ontology. Specifically, two aspects of the ontology are especially helpful. First, rules are ideas about reality, not inherent features of it. Second, ideas are objects of mentation, and any physical presence they have outside a mind is incidental.⁵⁸ Because rules are mental objects, they can only be reproduced, which implies both that structure consists of naturalized ideas, otherwise they would only be recalled, as we recall derelict structures of the past, and that an interesting concept of contingency is not necessarily about the relative probabilities of events as much as how signs are included in or excluded from a narrative (A. Abbott, 1997; Vucetic, 2011). So if stability here is a function of the value of signs in a given type of system, an account of stability must treat the question of how the reproduction of signs relates to their meaning and contingency in the context of the resulting narrative, not to how actors choose in a context of constraint. Baudrillard's postulate of the inverse relationship between information and meaning, according to which meaning must decrease as information increases (Baudrillard, 1994), is very helpful to this end. A stable and secular type of change, namely entropy, can result merely from the proliferation of signs and need not proceed from a particular act of will in a specific constellation of constraints. It also allows for the self-reinforcing tendencies to exist on the plane of the narrative of the system without having to penetrate individual perceptions of a series of discrete situations.

⁵⁸ This might seem counterintuitive, given that written rules might appear to have greater permanence than, say, never-uttered and quickly forgotten personal resolutions. However, the text of a rule is merely a representation, not the rule itself. For example, if we read a disused rule from the code of Justinian, we recognize it as a representation of a historical rule but not as a rule that applies to us. A physical representation might help to remind thinking subjects of a rule they recognize, but the effective status of the rule is contained in the recognition, not in the representation.

The secular tendency of meaning to dissipate over time and the inclusion of signs into a narrative, right up to the point when they become naturalized and their exclusion becomes unthinkable, is the general form of the effective structure at play in the history of international society. Structure, then, is the memory of the social process of representing a reality, and it contains traces of all past representations and conditions the representations of the future. However, because my description narrates by means of ideal-types, and the narrative progresses through different ideal-types characterized by different kinds of value, it is also important to consider structural transitions. The disruptions to the stable trajectories are usually called critical junctures, and they are not as self-evident as one would hope.

Critical junctures are another major element of historical institutionalist narratives whose superficial simplicity belies the depth of their ontological and epistemological implications. The contrast with more or less stable paths implies an element of discontinuity. Superficially, critical junctures are merely turning points that separate identifiable types of sequences or stages in a process. In terms of path dependence, they are breaks or crossroads in the path (Capoccia & Kelemen, 2007). Therefore, to identify any critical juncture, one must be able to identify three different components: an initial trajectory, some change and a subsequent trajectory (A. Abbott, 1997; Pierson, 2000).⁵⁹ This apparent simplicity dissolves rapidly, however, when one considers how this relates to notions of structure, agency and narrative.

If even stable paths can be stable by virtue of perpetuating a certain kind of change, there must be some additional noteworthy aspect that warrants labelling these changes as *critical*. There is nothing inherent in any event or representation that identifies it as critical. Criticality must always be assessed relative to the theory in question because the theory, as a depiction of the world, will specify what counts as

⁵⁹ Lawson (2006) pleads for historical sociology to consider another case of transition, namely de-institutionalization. In this case, there would be the transition from institutionalized state then a turning point, and then a de-institutionalized state. My historical narrative could also be considered a series of de-institutionalizations, whereby the meaning capacity of one semiotic system becomes so weak that it collapses. The collapse would then be followed by a new type of system with a qualitatively different sort of value underlying the meaning it carries. This would just see each type of order as an institution unto itself that emerges, pervades and disappears.

continuity and what counts as disruption.⁶⁰ It specifies the narrative structure, so the theory provides the standard of what is critical. My narrative consists of a sequence of ideal-types of semiotic system based on different kinds of semiotic value that describe how signs contain meaning, if at all, not of agents that negotiate their way through obstacle courses of external constraints, so criticality here refers to the shifts between orders.

One way to characterize critical junctures in structural terms is as points where the probabilities of potential futures shift so that some fairly suddenly become more probable and others less. The apparent discontinuity of critical junctures is then a function of the fact that the futures resembling the past become less probable relative to those futures that differ from the past in some important respect specified by the theory (A. Abbott, 1997). This, however, considers narratives in terms of events where subjects are the protagonists. But the current description of international society focuses on the signs that constitute it, not the subjects who communicate and configure them, so describing them in terms of probabilities would be inappropriate. Rather, if signs are the characters in this narrative, then the transition must be considered relative to significant events in their biographies. Given that the historical progression sketched in the last chapter and to be developed in the coming chapters referred to a progression of semiotic orders representing international society using signs with ever less meaning, the critical junctures are the transitions from one type of order, containing predominantly signs with one type of value, to the next.

Combining these two notions of structural change and criticality depending on theory makes it possible to consider how to characterize contingency in the present instance and what role agency can be expected to play. It might seem that the notions of change and breaks in more or less stable states must imply - finally - emancipatory contingency in the narrative, taking the form of openings where subjects can exert

⁶⁰ Capoccia and Kelemen (2007) provide a general-purpose scale of criticalness that amounts to theoretical surprise. This is, however, unenlightening because if the theory were well enough specified to be able to account for the surprise, it would not be surprising, which would obviate the criticalness. On the other hand, if the theory was poorly specified and allowed for surprise, it would be easy to overstate the significance of the surprise because the theory would probably be surprised by a great deal. McCloskey (1991) makes a similar point with his impossibility theorem, which states that as soon as an algorithm appears to model a seemingly chaotic process, like the stock market, that algorithm will soon become common knowledge and the process's chaotic properties will vanish. For an elaboration of how chaos and linearity affect historical narratives generally, see Riesch (1991).

some autonomous agency. This, however, would be a hasty and inaccurate conclusion, because the focus is not on what subjects do, but on the representations of reality in which they operate, and the nature of these representations can and do change without the wilful intervention of empowered subjects. Whatever any given agent intends and plans, the semiotic systems by which they understand and represent the world will subsume them. Any power subjects have to change the world, they would have by virtue of the prevailing representation of the world and the privileges this particular representation affords them, which is to say that signs trump intentions.⁶¹ Contingency, therefore, refers neither to randomness nor to the effectiveness of acts of will, but only to the impermanence of certain features in the narrative of theoretical interest. It is a comment on the variety of concepts contained in the theory, not about the malleability of history or the amenability of events to intention.

Before moving on to considering genealogy, there remains an obvious and important question about the application of historical institutionalism to a study such as this: in what sense are semiotic systems as described in the last chapter institutions in the sense intended by historical sociology and institutionalism? Does this methodological shoe even fit the conceptual foot? If one considers institutions as a synonym for organization, as is common in IR, then semiotic systems would be considerably more expansive, but concepts as broad as I require are already common in sociology. Hall and Taylor, for example, allow for institutions that are so deeply constitutive of reality that they resist individual action and, many cases, perception: "...many of the conventions associated with social institutions cannot readily be the explicit objects of individual choice. ... some institutions are so 'conventional' or

⁶¹ This is a terribly abstract point, so a concrete example from a well-known narrative might help. The Star Wars saga contains several situations that seem like critical junctures from a narrative perspective focused on agents. When Luke decides to embark on his initial quest or seek training on Dagobah or to help save his friends in Vader's/Jabba's grasp or to face his destiny with Vader, he seems to be exerting agency on the narrative with good intentions and acts of will. However, at a higher level of abstraction that is focused on the semiotics of the narrative, one can examine the historical conditions that led the Republic to be rebranded as the Galactic Empire, how and why the force came to have its good and evil valences and what those adjectives mean, what informs the representation of the rebellion as freedom fighters, criminals or terrorists, and what the factions consider to be the purpose of their activity in their respective notions of the cosmic order. This latter narrative would also be interesting for how it conditions the types of 'agency' and perceptions of it in the first place, even if it did not include nearly as much wilful activity as the first.

taken-for-granted that they escape direct scrutiny and, as collective constructions, cannot readily be transformed by the actions of any one individual. Institutions are resistant to redesign ultimately because they structure the very choices about reform that the individual is likely to make” (1996, p. 940). Even Fioretos, who espouses an epistemologically positivist variant of historical institutionalism and a causal theory based strongly on rational agents in a context of constraints, defines institutions as “...the rules and norms that guide human action and interaction, whether formalized in organizations, regulations, and law, or more informally in principles of conduct and social conventions” (2011, p. fn. 18). If one allows that these rules have a semiotic structure comparable to that of language, and like language serve to constitute reality by representing the world in certain ways with certain rules of composition and combination, then the semiotic systems of the preceding chapter are eminently compatible with the concept of ‘institutions’ as many historical institutionalists and sociologists use the term.

Institutions as representational vessels of reality also provide the bridge between the generally positivist strategy of historical institutionalism and the generally post-positivist strategy of genealogy. Indeed, the ontological claim that reality as it is experienced is constructed and consists of representations that are principally ideational rather than material is a point of agreement between positivist constructivism and its post-positivist other (Vucetic, 2011). Epistemology is where they differ. The positivist approach is generally to assume that the status of these constructions is unproblematic in that reality is as it appears and, though we might have ethical objections to certain aspects of it, it is susceptible to theoretical specification that is testable against empirical observations (Reus-Smit, 2002; Wendt, 1999a). Post-positivism differs in that it sees representations of reality as problematic and subject to interpretation. Although positivists would allow that the function of an institution differs from its intended purpose in the sense of unintended consequences (Fioretos, 2011; P. Hall & Taylor, 1996; Lawson, 2006; Pierson, 2000), post-positivism allows for the function of an institution to differ from that intended in the sense that institutions can contort reality in various ways, necessitating interpretation to describe these contortions (S. Smith, 2002). And if reality cannot simply be read, interpretation is a creative act (Bevir & Rhodes, 2012; Bevir &

Rhodes, 2006; Dennett, 1990; Hollis & Smith, 1990). Following this distinction, historical institutionalism provides the basic periodic structure of the narrative and its conceptual apparatus is fit for the task, filling that narrative with historical material in the form of representations requires more interpretation, which I pursue with the help of genealogy.

One of the most vexing problems in dealing with historical narratives is the temptation to make them into functional, efficient generators of the present. This impulse is inherent in historical research because the form of the narrative and its salient features are never apparent while they are occurring. Rather, the narrative is only recognizable as such once it has reached the fifth act and the curtain has already fallen. Subsequent interpretation divines connections between otherwise disparate events and imposes narrative unity on a reality that would otherwise appear chaotic (A. Abbott, 1995; McCloskey, 1991; Riesch, 1991). This can lead to functionalist histories in which events seem to conspire efficiently to produce a 'logical' outcome. In contrast, genealogy is a means of writing inefficient histories whose teleology is not a process of pulling the logic of the past into a reasonable present, but of pushing the reality of a lost present forward from one exploitable accident to the next, proceeding through successive patterns of hegemony (Foucault, 1977a). The goal of genealogy is not to affirm the sensibility of the status quo; it is to examine on what representations the claims to current knowledge rest and to describe how they came to dominate. Genealogy is an attempt to destabilize the reality of the present with history, not to reinforce it with a story.

Before examining the drudgery of genealogical practice, there are two related reasons why it might be an ill-advised technique. First, there is the question whether a subversive bias really needs to be hardwired into the mode of observation and interpretation. Second, process tracing would seem to be a conventional method of composing historical narratives that could equally supplement *without* this bias, which would imply that it is perhaps a less loaded methodological choice. Because they are related, answering the first objection will provide a clue to the answer to the second.

In reference to the question of subversive intent, no study that investigates aspects of power and hegemony, and all do implicitly or explicitly, can take a neutral stance towards it (Cox, 1981; S. Smith, 2004). Hegemonic power is always on the side of the status quo by definition, and there is no reason to suspect this applies any less when the power is contained in signs than when it is invested in individuals. To the extent that interpretation and recounting is a creative act that involves selecting and emphasizing certain aspects of a reality to the neglect of others, even the acts of observing and collating serve to reinforce or to subvert the prevailing narrative and its assumptions about the world and its meaning. The question, then, is not whether it is wise or necessary to select a biased mode of observation, but whether one's bias will be subversive or orthodox. Since the status quo is hyperreal, and hyperreality alienates and facilitates violence against subjects, it would seem that subversion is warranted.

The partial nature of all interpretation also helps to assess the suitability of process tracing, which entails establishing causation by 'uncovering traces of a hypothesized causal mechanism within the confines of one or a few cases' (Bennett & Elman, 2007, p. 183; A. L. George & A. Bennett, 2005). The first problem with this method, then, is that it focuses on causal relations, whereas the current description brackets most issues of causality in order to focus on how representations coalesce into a semiotic system and what consequences that has. And because process tracing focuses on what subjects do in the narrative described in terms of the signifiers they utter, it is not clear how it could step outside the semiotics of signifiers and trace the mechanisms operative at the level of their ideological attachment or the process of fetishization.⁶² This restriction to the level of manifest signifiers also suggests that process tracing is inherently an orthodox methodology whose capacity for critique is limited. Therefore, genealogy is the preferable method, even though it is less formally elaborated and conventionally accepted.

⁶² Historicizing the description of international society as a hyperreality and making this description plausible is enough work for the present, so I will not consider such mechanisms much either. However, if one wanted to pursue this line of inquiry, psychoanalysis offers more and less well-developed techniques to discern and specify mechanisms. There might be ready analogues to Freud's (1920, 1924) narcissism, displacement and condensation.

Having established that genealogy is an appropriate complement to historical institutionalism for the purpose of needling the status quo, there still remains the question of how to go about doing it. Historical institutionalism provides helpful ideas about characterizing change, continuity and transitions, which in itself provides some useful suggestions about where to look for telling documents and data, but genealogy should supplement this general structure with more detailed indications of which details are relevant to fill this structure with material. Considering that my interpretation spans three cases to be described below, about a millennium in more or less detail, and it concerns the semiotic construction of international society, which is a sign of rare expansiveness, some drastic culling is necessary if the result is to be at all intelligible.

Genealogy is well suited to such an expansive research object because it does not require an uninterrupted and detailed narrative from one precise historical moment to the slightly altered subsequent moment. Instead, it relies on identifying episodes, which are broad historical periods that display some conceptual unity (Vucetic, 2011). In fact, genealogical episodes resemble the more stable periods of historical institutionalism, and they are also used in analytic explanations, a variety of process tracing (A. George & A. Bennett, 2005). Delimiting episodes is a challenge for which there is little formal or abstract guidance. However, the current study includes theoretical and empirical aids in identifying and distinguishing episodes. The theoretical aid is in the form of the ideal-typical semiotic systems, each with its own dominant form of value that determines, or at least describes, how signs relate to meaning. The conceptual lines between these different types might not be as sharp as to provide an irrefutable litmus test, but they are distinct enough that paradigmatic representations of each can be found to exemplify their cores. The empirical aid is diversity of the three cases in terms of what they represent manifestly and the peculiar synchronicity that appears when they are cross-referenced with each other to see what they collectively mean for international society. If the cases were out of historical sync with each other, it would be difficult to speak of an episode relating to the broader concept of international society, but if different cases all display similar types of semiotic value at comparable historical moments *despite* ostensibly

signifying different aspects of international rules, then there would be grounds for generalizing the similarities into episodes.

Although genealogical episodes seem to provide a licence for the broad historical brushstrokes that pre-modern, modern and post-modern representations of international society will require, they too need to be filled with some material. The finer components of episodes are examples. As the name suggests, examples are more illustrative than comprehensive in that they serve to exemplify the concept that unifies the episode rather than to trace the progression of moments throughout the episode and from one episode to the next. But since they are not comprehensive, they too require a logic of selection. As a matter of pragmatism in communication, effectiveness is the criterion to determine what kinds of examples best represent an episode. In this context, effectiveness refers to how well the example denaturalizes whatever feature of social reality the episode, and the genealogy more generally, is composed to problematize (Vucetic, 2011).

In effect, the genealogist chooses the examples that best support his case, which in a positivist mode of inquiry would be blatant and deliberate selection bias. While there is a certain conceptual similarity between effectiveness and selection bias, the charge would betray a misunderstanding of the purpose of genealogy. Selection bias occurs in correlative studies where a causal relationship is supposed to be a function of systematic variance between variables and the observed correlation results from an exogenous logic of case selection rather than a causal relationship endogenous to the theory. In other words, some values of the variables are overrepresented in the sample for no good, theoretical reason. This does not apply to genealogical studies in general and the current narrative in particular for two reasons. First, the objective is to trace how signs carry and have carried kinds of meaning, and how the type of meaning they carried collectively as a system has changed over time, but causes and variables are bracketed. The relationships of interest are between different signs, between signifiers and signifieds and between signs and subjects, not between variables. Second, the point is largely to problematize the view of the world where abstractions like international society, international rules, states and so on are taken to be substantial entities that vary in relation to each other in some systematic, quasi-

natural fashion, as if they were something other than purely mental abstractions. Consequently, there is also a rhetorical logic of selection that suggests choosing especially poignant examples of the absurdity of international society as ideology.

Combining these two tactics yields a strategy comparable to that of Foucaultian history. In short, the objective of this strategy is to reconstruct and problematize regimes of truth, but doing so in terms of semiotics because of the semiotic structure displayed by the rules of international society. Of course, destabilizing regimes of truth itself requires making truth claims, as does all social science (Vucetic, 2011). Here the truth claims consist of the features and consequences of international society, references to other scholars' work, and factual claims about who said what about international society or particular rules when.⁶³ The actual practice is similar to Pouliot's (2007) three steps of subjectivism, which include inductively recovering subjects' meanings, configuring these meanings in some objective context, and then to reinforce the objectification by historicizing them. The major differences are the explicitly critical stance and the fact that practices are here used to reinforce the interpretation of the representations instead of the reverse.

What I am looking at (I): the rules

There has been much discussion so far about abstract notions of reality and equally abstract ideas about history, but I have not said much about how to grasp international society and its semiotic characteristics as a matter of practical research. This is the final matter to be considered before the examination and interpretation of empirical material can begin. The first issue to clarify is how to make such an expansive representational system as international society amenable to observation in the first place. To the extent that inference is a form of interpretation that entails divining meaning from incomplete and fragmentary data, I first need a logic of inference to indicate what kind of data is required and how to interpret it. The short answer is to look at ostensibly disparate international rules over a long period and to

⁶³ 'Factual' does not mean that there is an essence beyond the reach of social construction. Historical time is certainly subject to construction, and my interpretation of historical events further constructs them. However, in referencing a certain work, say Grotius's *Mare Liberum* from 1608, there is facticity in the reference to the extent that it is not purely my invention, that there is a such a work to which the reader could also jointly refer, even with a contrary interpretation.

compare them. This, however, recalls an unfulfilled promise of the last chapter, which is to distinguish teleological from conventional rules as objects of semiotic research. Not all rules are equal when it comes to decoding international society, and conventional rules are superior for the present purposes. And just as not all rules are equal, neither is all data, so the next consideration will be what constitutes data and how to deal with different kinds. For example, do primary historical sources and secondary sources have different functions or limitations? Armed with a logic of inference, a defined 'population of cases' and a notion of what counts as data, I will be able to select my three cases, the three-mile rule of territorial seas, the most-favoured nation rule of international trade law and nationality as a basis for statehood, and justify these. Finally, there will come considerations of how to discern meaning in signs and what indicators are required for the various forms of value that each semiotic order contains.

If international society consists of the rules that compose states, and the discourse containing such representations goes back perhaps ten centuries, the sheer scale of the material to examine presents the first practical, methodological imperative. There is far too much data to consider directly, so a mode of inference is required to drastically reduce the amount of data to examine while preserving the persuasiveness of the resulting interpretation as much as possible. Although I do make sense of the world with a pre-existing theory, which I described in the last chapter, the first step in the actual process was case-based induction, with the semiotic theory coming into play only later as a way to formalize the intuitions derived by empirical observation.

Induction is the most fundamental mode of inference. As Feigl (1934) recognized, "The attempt to know, to grasp an order, to adjust ourselves to the world in which we are embedded is just as genuine as, indeed, is identical with, the attempt to live. ... Only if extended and strenuous efforts led invariably to complete failure, we would abandon the hope of finding order. And even that would be an induction" (29). Case-based induction might sound peculiar, because the fundamental problem of induction is how to identify a case in the absence of a theory that would specify what counts as a case (Mill, 1846). One can, however, reason backwards and start

with an identifiable phenomenon under a more or less specific concept before posing the casuistic question: of what is it a case? In this work, the cases in the form of international normative conventions came first, and it was only when I noticed a strange historical synchronicity across diverse cases that it occurred to me to pose that question. Therefore, it was a pattern-based approach that sought coherence across cases, not a case-based approach looking for variation between them (A. Abbott, 1988, 1997).⁶⁴ Had the cases all related to a common issue-area, they would have generalized to the concept of an international regime (Hasenclever, Mayer, & Rittberger, 1997). However, the cases apply to different issue-areas, which was a deliberate choice to maximize the generality of any results, so they correspond to the more general concept of international society. Indeed, producing a more general interpretation is what drove the comparison in the first place, not the search for causally efficient variables. Nonetheless, the pattern-based comparative approach shares with the case- and variable-based approaches that increasing generality sacrifices depth (Sartori, 1991).

I have intimated surprise on a few occasions, stating that the synchronicity among the cases struck me as peculiar and that the ideology of international society is absurd. Explaining this impression of uncanniness might help to specify what is to be induced and the jump from empirical observation to the particular theory of semiotics and meaning. After having surveyed the primary sources and secondary historiography relating to two cases over several centuries, a common development became apparent. Namely, the rules became increasingly byzantine over time. After further examination, it became apparent that not only did historical figures debating the rules of international society depict these rules in increasingly complex terms until they finally became virtually impenetrable, but the representations seemed to coalesce into successive stages. The earliest representations of international rules from before and just into the seventeenth century illustrated a social order more or less directly in reference to God's will and reflected a certain project in that light.

⁶⁴ This distinction is roughly comparable to that between the method of agreement and the method of difference described by Mill (1846). However, Mill's methods assume an ontology of discrete entities acting on each other to produce outcomes with future outcomes immune to the influence of past paths, which is more heavily laden with assumptions than I need. For examples of Millian comparative logic, see Lijphart (1971) and Sartori (1991).

Representations from roughly the late seventeenth century became highly mutable but were often presented in terms of the purportedly immutable features of the authors' environment. However, there was not a simple transition to *raison d'état* from *raison de Dieu*, there was also consideration of what rules were necessary for states in their multiplicity, a *raison du système*. The project to which they were collectively contributions seemed to relate to the perpetuation of this system, if not a capitulation to its seeming inevitability. But the erraticism of the rules contrasted strikingly with the professed imperishability of the system. Later, starting towards the late nineteenth century and becoming progressively more pronounced until the present day, the rules' quantity and complexity have become inordinate. They no longer describe a reality that allows subjects to situate themselves or to guide reasonable, meaningful behaviour. There was no longer any sense of a project, yet the activity that effectively perpetuates international society as a dominant coordinate of reality became ever more intense and the range of activity it subsumed ever more extensive. Looking at a third case corroborated this impression, and that became the pattern for which curiosity demanded a theory.

The three periods just sketched, which correspond to the counterfeit, production and simulation systems of the last chapter, all seemed to display their own meta-narratives. And these meta-narratives related to the nature and purpose of international society as a mode of macro-political organization. The incongruity lay in the increasing profusion of contributions to the meta-narratives although the contributors apparently had less and less to say. Baudrillard's semiotic theory then recommended itself as a means to formalize and structure the intuitions and the contradictions they seemed to imply, and the built-in critique of alienation seemed to correspond well to the image of subjects acting with furious intensity despite having lost sight of the meaning of that activity and how symbolic effectiveness can persist, zombie-like, even after meaning has dissipated. Although Baudrillard would probably dispute the application of his theory to such historically old material, it also offers advantages as an apparatus of historical narration because it avoids naturalizing existing institutions and can reveal their problems, which is an attraction of good historical research generally.

Before discussing the form and content of the chosen rules, a word about their cultural origin is in order. The rules are all of European origin, and they present a euro-centric image of international society. Further, their form is arguably very androcentric and their content is definitely very anthropocentric. These biases, while regrettable, are unavoidable. The narrative of international society has been written by humans (though not necessarily *for* humans) and generally with little regard for the rest of life on the planet. These humans have generally been men, who often had little care for actual women, though occasionally for an idealized image of a woman as the virgin mother of Christ. And these men have generally been Europeans who saw the rest of the world as a means for self-aggrandizement. These biases are unfortunate features of the current semiotic order, and their historical roots are difficult to separate analytically or morally from it. It might well be that another semiotic basis, one that provided different coordinates for meaning than European ideas about Christianity and Roman ideas about law, might have provided for a very different historical trajectory and a different semiotic system in the present. But because this question is purely speculative, the best course of action available is to engage critically with the semiotic system we have.

The principal type of sign I examine are rules, and they can be conceptualized as signs because of the similarity between the way that the rules of international society constitute states and the way signs constitute each other as more or less meaningful units in a semiotic system. That discussion from the preceding chapter negated some of the common distinctions made about rules, like the distinction between regulative and constitutive international rules, but it left one distinction open, namely, the distinction between teleological and conventional rules. It is more appropriate to discuss this distinction here because, although the two kinds of rules can be separated analytically, the reason to do so is mostly epistemological in that they reveal very different things about different kinds of narrative. Consequently, they inform considerations of what to observe at least as much as they do about what exists in the world.

Conventional and teleological rules differ on many dimensions, many of which are captured by the contrasting notions of rules *of* behaviour and rules *for* behaviour

(Postema, 1994; Sugden, 1998), in that the former are more descriptive and the latter are more prescriptive. Clearly, there is also a temporal dimension in that conventional rules are oriented more towards the past up to and including the present, whereas teleological rules can start in the best case, at least from the perspective of whoever is proposing them, in the present and be carried into the future. There might also appear to be a distinction between the real character of conventional rules versus the ideal character of teleological ones, but if both can be considered representations of some socially constructed aspect of the world, whether actual or aspirational, this distinction is difficult to maintain. Conventional rules are ideal in the sense of existing in the mind, or several minds, and can be hyperreal, whereas teleological rules can represent meaningful aspirations and be very symbolically efficient, so they can be more real than their conventional analogues.

Strung into a narrative, the discourse around teleological rules could be illuminating in many ways. The act of proposing a teleological rule implies some dissatisfaction with the status quo and the identification of some defects with the world of those proposing it. Therefore, examining teleological rules would provide information about which defects subjects perceived and in which direction they sought to improve. In terms of international society, they could be interpreted as attempts to constrain or to reform the society as it had been constituted. Teleological rules are, however, inappropriate for the current study because the focus is not on the countless other societies that might have been or what generative potential alternative semiotic grammars might have held. Rather, the question relates to the semiotic development of international society and the rules that served to maintain it as a semiotic system ordering actual life, and conventional rules are better suited to this purpose.

There is a vast literature relating to conventional rules,⁶⁵ and they attract so much attention because they are fundamental constituents of social reality. Indeed, the rules of grammar of all natural languages are conventional as are many other features of everyday life, like the use of forenames and surnames, counting based on a decimal system and the extent of a family unit to include only parents and children.

⁶⁵ To the extent that the teleological rules are the object of the study of ethics, the literature about them is much vaster still.

The main cleavage in the study of conventional rules relates not as much to the question of what counts as a convention as to the question of what they mean and *how* best to study them. Specifically, one school of thought considers them to be interesting because of the puzzle their existence presents, which becomes clear if one assumes that conventional rules are required to communicate and establish the existence of conventional rules. In other words, the question is how they could arise in the first instance, which is a puzzle if the subjects who assent to them do not yet have the means to communicate about them. This branch of thought tends to analyse their emergence in the first instance by means of formal theory (Bunzl & Kreuter, 2003; Den Hartogh, 1998; Lewis, 1969; Mehta, Starmer, & Sugden, 1994; Young, 1996). The other school of thought starts from the historical point that nothing comes from nothing, so there is no first instance to explain (Goyal & Janssen, 1996). There is only ever a prior instance. Hence, the point of interest in an abstract sense is to analyse conventional rules' significance to social life and the constitution of reality (Favereau, 2008; Gilbert, 1983, 1989, 1990, 1999, 2008; Marmor, 1996, 2007) To the extent that this debate is relevant here at all, the second school is clearly more apposite because the question at hand is how the representations of these rules served to constitute a particular society in history, and what repercussions the changes in meaning of those representations had for the overall society and the people living under it.

There is a key analytical feature of conventional rules that attracts broad agreement and that is epistemologically interesting. Namely, their form is arbitrary, and a contrast with teleological rules will illustrate the point. The intended purpose of a teleological rule impinges on its form so that, if one wants to prohibit murder or ban chemical weapons, that goal must be reflected in the formulation of the rule. There are not several equivalent ways of formulating these rules, whether they entail prohibitions or duties. Conventional rules, on the other hand, display arbitrariness in form, and language is an excellent example that deepens the connections to the semiotic logic of the last chapter. Just as there are an indefinite number of more or less equivalent sounds to express any verbal concept, and there are an indefinite number of more or less equivalent visual marks to represent those sounds, the rules pertaining to the territoriality of states, the criteria for their demographic composition or their abstract symbolism, for example, have no predetermined and

analytically necessary form. For instance, there is no inherent reason for flags to be rectangular, or for flags to exist as symbols of statehood at all, and there is no inherent reason for overall territorial contiguity. These characteristics of international society accept wide, in some cases indefinite, variation in form. And just as the structural configuration of semiotic signs relative to each other is the best, if not only, way to determine their value because of the arbitrary relation of signified and signifier, the comparison of conventional rules *as signs* will provide information about the grammar of the meta-narrative over time and the semiotic structure at any given time of international society. As a matter of inference, looking at one rule of international society, like non-interference (Glanville, 2013) or the charter of the United Nations (Onuf, 1994),⁶⁶ is insufficient to discern the character of the society or its meaning. Rather, their arbitrariness necessitates comparison among them.

Beyond their correspondence to abstract semiotic structure, there is another, more obvious, reason to base the interpretation on conventional rules. Whereas teleological rules depict perceived defects of a contemporary international society and aspirational virtues, conventional rules' descriptive character reveals more about how historical subjects perceived their contemporary status quo. In other words, teleological rules inform about what people think is wrong with the world and what should become of it, but their representations of conventional rules inform about their convictions regarding mechanics of the world they think they are acting in. To the extent that international society is made of ideas, conventional rules depict ideas about how subjects expect the world to operate, not about how they think it *should* operate. Both rest on ideas and subjects' convictions, but conventional rules are far more informative about how subjects relate to the signs and their meaning in the world as they experience it.

The type of rule is not the only relevant criterion on which to focus the observations, because not all conventional rules will provide the same epistemological leverage. Because semiotics and representation are so fundamental to how reality is

⁶⁶ In fairness, the UN Charter is a complex of rules, not all of which are even conventional. However, the criticism still applies to the attempt to look at a single document, which appeared at a particular historical moment and whose received meaning has changed over time. If the international system is fit for semiotic analysis at all, one datum is simply not enough.

constituted and experienced, semiotic systems are fairly durable. This durability implies that the best candidate rules should have long histories to make the variation in each and in the system they reflect more apparent. Another criterion is that there must be sufficient data, which simultaneously raises the question as to what counts as data. This question is especially relevant to a historical study of narrative and meta-narrative content because it would seem to dissolve the common historiographical distinction between primary and secondary sources. For example, if a 19th century jurist presents his interpretation of Grotius, who had written two centuries prior, would that be a primary source or a secondary source? In short, it could serve as both; that is, as a revealing interpretation of how Grotius combined signs in his own time to construct a world as well as informing about how the author in question positioned the world he experienced in relation to that prior representation.⁶⁷ Indeed the distinction between primary and secondary sources, though important for historians trying to find and analyse new historical material, can be easily overstated in the present project. Here, the goal is *not* to recover and analyse historical apocrypha. Rather, the point is to interpret the meaning encoded in the signs of different historical periods and to determine which type of value provides the operative principle of the resulting system. In this meta-story, all signs can be interpreted as signs, and the point of interest is their relation to other signs, not how thoroughly they have already been discussed or neglected in any subsequent period.

Another important point regarding data is that it is not evenly distributed throughout the span of time in question. Some of the earliest data to consider only appears in the form of echoes traceable in sources from later periods. Other periods produce diverse representations in surfeit, such that there is more than enough material to analyse each decade in itself. Dealing with inconsistent data availability is, however, a challenge in any historical research, and of much social scientific

⁶⁷ This also reinforces the notions about path dependence described above. Every contributor to the narrative was engaging in some form of *bricolage*, composing some intelligible representation from the available semiotic resources rather than creating something entirely new. In other words, path dependence is a corollary of the stickiness of semiotic grammar.

research in general.⁶⁸ It is not a particular problem for the present undertaking also because of the genealogical tactic of selecting effective examples rather than seeking examples that reflect some notion of representativeness with respect to the population of all representations. In any event, there is cumulatively far too much material for a comprehensive survey, so I am only aiming for an indicative and substantiated interpretation in broad strokes.

A final criterion for selecting which rules to observe applies not to each individually but to them collectively as a set. Specifically, the rules should pertain to different aspects of international society in order to avoid capturing what might just be a partial logic that applies only in a branch of the semiotic system.⁶⁹ However, the job of distributing observational attention around the system is not as straightforward as it may seem. Given that international rules condition each other by mutually impinging on the sign of the state, just as signs condition each other's meaning in a semiotic system by their relative positions, it is difficult to subdivide the rules of international society into different domains, sectors or issue-areas. All international rules apply in the final analysis to some aspect of statehood and serve to constitute the signified of international society.⁷⁰ However, the work of discerning the type of value on which the system rests must deal with actual signifiers anyway, so contemporary subjects' own phenomenological categorizations of rules will suffice. Therefore, it is enough if those constructing the signs can discern and express the perceived analytical distinctions between them with some rough consistency. Indeed, how they do so could be relevant material for interpretation in itself.

With these extensive prolegomena out of the way, the time has finally come to introduce the conventional rules of international society that will form the core of this interpretation. They are the territorial sea, the most-favoured nation rule of international trade and nationality as a normative basis for statehood. Before

⁶⁸ In fact, seeking and sorting data to compose such things as archives and historical records is one of the reasons for and attractions of primary historical research. This activity is as necessary as it is dangerous.

⁶⁹ By analogy, if one wanted to learn about the general attributes of melody and rhythm, examining only pop or jazz or classical or grindcore would provide only a partial and distorted image. A comparison of Bach, Brian Eno and Hatebreed would be far more informative.

⁷⁰ Following the musical analogy from the last note, all kinds of music conversely inform our ideas about melody, rhythm and music generally.

discussing the tools to identify the various forms of semiotic value across these different rules, I should say something about each of them to define the contours of these signs.

The basic idea behind the territorial sea relative to states and international society is that sovereignty is projected into the sea from the adjacent shore for some distance. The international legal narrative traces the development of this rule back to Roman law, when sovereignty was explicitly not applied to maritime space. The simplicity of this rule contrasts greatly with the proliferation of different rules in early modernity, which ranged from re-iterating the Roman rule to claims that sovereignty applied wherever the claimant could exclude contenders. A measure of consensus emerged later around the idea that a band of water at a fixed distance from the shore was the appropriate form for all territorial seas, and the breadth of this band was spuriously justified with reference to the range of a particular weapon, namely the cannon. This persisted until the postmodern period, when the hyperreal logic of legal sophistry took over and subjected the rule to semiotic contortions increasingly simulated formulations, which are epitomized by the abstruse definitions in UNCLOS III.

The territorial sea is clearly a conventional rule and always has been. Although the form of the rule was often debated, there was agreement throughout the period of observation that *a* rule existed in some form, distinguishing it from the aspirational nature of a teleological rule. Its arbitrariness is also plain to see. The fact of the historical variation in the form of the rule indicates that there is nothing inherent or necessary in any particular form.

The rule is also interesting because of how it relates to the signifier of the state through the signified of territoriality. Territoriality is legally and symbolically a fundamental attribute of statehood (Shaw, 1982), as is evidenced by its co-equal status with a permanent population in Art. 1 of the Montevideo Convention on Rights and Duties of States. The notion is that if the state exists, it must exist somewhere. One of the things a state must contain in its signified is a geographical location. This seems obvious because of the fact that states are ideas that organize human subjects, and humans are land mammals that require land to live together

socially at any appreciable scale. But the self-evident character of this requirement is disrupted when it is applied to the sea, where the apparent naturalness of its function no longer applies. It is an especially effective rule to examine because of how it makes the project of constructing states and a society of them through rules evident.

The second rule I will examine, the most-favoured nation (MFN) principle, has been applied to multiple aspects of international intercourse, but I will focus on its use in trade, where it has been most thoroughly developed and with which it is most commonly associated. The basic idea behind the principle is that a state must extend the same terms of trade to any second state as it provides to its most favoured third state such that the trading partner in question is not disadvantaged relative to the most favoured competitor. This means of establishing rough equivalence can be and has been expressed in numerous empirical expressions. It has applied historically to individual merchants rather than goods, unilaterally as a means of exacting tribute as well as solidifying cooperation through reciprocity, with various degrees of conditionality and automaticity and applied to different types of counterparty. Again, this historical variability indicates that this principle is arbitrary and conventional rather than teleological and a priori.

It is also very valuable epistemologically because of how it arranges a set of signs in relation to each other. Whereas the territorial sea is treated as a matter of finding a single rule for all, the MFN is a principle that can vary contextually depending on the ideas of those who are applying it to themselves and others. In other words, for most of its history it has been a general principle with particular instantiations rather than a general rule with strictly uniform application. Further, it is an interesting case of a conventional rule embodying a principle of fairness, or at least equivalence. In determining the semiotic value of a sign, it is very helpful to see how those who use and manipulate the sign establish relations of equivalence and synonymy to it. The revelatory potential of this rule is even amplified by applying it to the area of trade, where relations of exchange, cooperation and competition as well as signs of contract and domestic and foreign are especially pronounced.

The third rule I will examine is nationality as a normative basis for statehood. This differs from the previous two rules on three dimensions in particular. First, it is not a formal rule of international society. States as signs can and often do designate multinational populations, and there are populations that self-identify as nations without any state. Although there are legal principles that relate the heredity of lineage to the territoriality of patria, such as *jus sanguinis* and *jus soli*, these are more often categorized as considerations of municipal law that operate in the background of international society. However, such considerations become semiotically prominent when distinguishing refugees, asylum seekers and immigrants, for example, or to distinguish cases of genocide from nondescript massacres. The normative semiotics of international society tend to avoid explicit attempts to define the content of nationality or its relation to the society's own state constituents, but any characterization of the form of international society would be utterly incomplete without taking this relation into account. Therefore, nationality⁷¹ can and should be considered an important element of the state's signified and, consequently, it can be treated as being of a kind with the other two rules.

The second dimension on which nationality as a basis for statehood differs from the other two rules relates to its function in the narrative. The territorial sea and the MFN relate to what states are and how they severally, as distinct signs, are to coexist. Nationality, however, exceeds merely what states *are* and starts to touch what states *are for*. As a rule, nationality as a normative basis for statehood is conventional, and it also has several different historical tenors to prove it. In early modernity, signs of political unity were to represent more fundamental religious units, and the hypocritical cults of nationality as well as post-national narratives only came much later. Nonetheless, there has always been a narrative relating the form of international society and its components to some notion of community that precedes the state, and nationality has fulfilled this function for the majority of the period of observation. Therefore, it is a conventional rule with a teleological function.

⁷¹ To avoid doing undue violence to the language and loading my prose with cumbersome compound terms, I will sometimes refer metonymically to nationality in place of 'nationality as a normative basis for statehood'. Hopefully, the denotation will be clear from context.

The third dimension is its explicit invocation of statehood. Although all signs in the system impinge on each other, and the simulation system is utterly without a master signifier, statehood figures more prominently in the constitutive discourse and narrative of international society. Even the adjective 'international' is ambiguous as to whether it denotes nations or states, and it would seem that they implicate each other in a relation of passenger and vehicle. Statehood as a central sign of international society is also to be distinguished from sovereignty in that sovereignty denotes only a few conditions of statehood. That is, there are varieties of sovereignties ranging from internal and external through to non-interference and territorial exclusivity, but statehood refers to the broader concept of legal subjectivity to which these various aspects, and others, pertain. However, statehood requires somewhat more subtle investigation than just reading off legal texts because it is not strictly a legal category with clearly canonical documents.⁷² Nonetheless, it is still a complex of rules. As Crawford (1978) put it in inadvertently semiotic terms, "... the criteria for statehood are rather special rules, in that their application conditions the application of most other international law rules" (110). While the other cases help to clarify and exemplify trends in international society through history, nationality as the basis for statehood occupies a more place central in the semiotic network in that more rules impinge on it.

To recapitulate, I will discern changes in the semiotic structure of international society by looking at international rules through time. But not all rules are equally well suited to the purpose. Distinguishing between teleological rules directed at the future and rectitude and conventional rules (ostensibly) derived from the past, I opt for the latter because they are more informative about how international society was jointly composed rather than how select authors would have liked to have it. Conventional rules' key analytical characteristic is their arbitrary form, which makes them convenient for semiotic analysis by showing how the system that comprises them was constructed in fact from among many equivalent possibilities. Finally, I selected three rules to examine, the territorial sea, the MFN principle of international

⁷² There are complex legal debates relating statehood to recognition in different ways, which I cannot elaborate here, but which I treat somewhat in chapter 5 in terms of the standard of civilization and the arch-modern doctrine of legal positivism. The principal question at issue is the extent to which recognition is merely a political act orthogonal to law or a legally constitutive element of statehood.

trade and nationality as a normative basis for sovereignty, which all fit the criteria for conventional rules in addition to offering a particular angle to examine the general semiotic structure of international society as a narrative composed of signs.

What I am looking at (II): signs of value (but not \$, €, £, or ¥)

Knowing what rules to observe is helpful, but it does not yet provide much guidance on how to interpret any given representation in the context of the semiotics of international society. Much of the work describing how the rules of international society can be considered signs on a conceptual level was completed in the last chapter, but the next step, namely how to analyse signs as parts of a larger semiotic system, and how to recognize what type of value provides the basis for that system, remains to be completed. This step can be further subdivided into two aspects. The first is to analyse how signs relate to each other and yield meaning. Signs are composite entities with components, and they aggregate to produce various kinds of meaning, so these abstract relations need to be clarified and made suitable for observation. The second is at the level of system-wide value, which relates the statics of a given semiotic system back to the types of system described by Baudrillard. In other words, how does one distinguish the signs of a counterfeit, production or simulation system just by looking at them?

The basic principle is that rules relate to each other in the normative construct of international society in a manner analogous, if not identical, to the way signs relate to each other in a semiotic system. Although one could analyse rules from legal, grammatical, aesthetic or any number of other perspectives, semiotic analysis recommends itself for its focus on meaning. Indeed, signs are containers, vehicles and processors of meaning that store, communicate and transform it. As described in the previous chapter, signs consist of signifiers and signifieds. These two elements have an arbitrary relation to each other, but the signs can nonetheless identify by virtue of the structural relations between them.

If representations consist of rules, and rules are as signs, and signs consist of signifiers and signifieds, then the most basic level to begin analysing the problem of observation is to clarify what counts as a signified and what as a signifier. This is at

once very simple and quite complex because nothing is inherently either. In other words, an object that is a signified in one relation can be a signifier in another.⁷³ Applied to conventional rules of international society, each rule can have three semiotic statuses simultaneously. Any rule can be a sign in itself with a representation of the rule relating as signifier to some prescribed state of affairs, or it can be the signifier for some aspect of states' ontology, like exchange rights or maritime sovereignty, or it can be part of the signified for which states are the signifiers; that is, the existence of states is an analytical precondition for the rules' status as *international* rules and constituting *international* society. To reduce their multivalence and make the interpretation of this interpretation more tractable, it will generally be the case that rules are treated as signifiers of stateness as well as signifieds of the more general representation of international society.

Because even the conceptual status of what is to be observed depends on context, the next step is to consider how the signs can aggregate into a system capable of conveying meaning of any kind. In terms of rules, the question could be posed roughly as 'if regulation constitutes, what is it constituting?' The question is more accurate and interesting in semiotic terms, where it becomes apparent that interpretation consists not only of determining how signs aggregate to form a system but also how the relations between the signs at the system level allows them in turn to mean something.

The invocation of genealogy as a diachronic strategy should also have foreshadowed that the synthesis of signs into a semiotic system bears similarities to critical discourse analysis. Specifically, critical discourse analysis also focuses on how meaning operates in a system of signification, how a discourse produces the things it defines, how signifiers relate to each other and what role power plays in the process (Der Derian, 2009a; Holzscheiter, 2013; Milliken, 1999). This entails analysing

⁷³ This might sound analytically useless and conceptually ad hoc, so an example from everyday life might help to demonstrate that people can deal with this ambiguity by discerning contextual, circumstantial and structural cues. Consider the example of dictation versus reading aloud. Both consist of situations where words exist as signs consisting of an aural and visual component as well as the conceptual signified. In the case of dictation, the sound is a signifier for the textual signified. In the case of reading aloud, the visual representation is a signifier for the aural signified. The changing conceptual status of the different components can still be preserved, and there is no magic involved in discerning which activity is taking place in any given instance.

differences in order to discern identity, though in the structural semiotic theory used here, identity relates to signs rather than subjects. There is, however, a more important difference between the historical approach proposed here and critical discourse analysis. Generally speaking, the target of critical discourse analysis is a regime of truth or a particular knowledge, and the goal is to deconstruct it. In other words, the point is to destabilize a system of commonplaces by showing their contingency and how their excess content exceeds its ostensible boundaries (Derrida, 1997). My target is a regime of untruth, but I include the step *reconstructing* how a system of signs developed from a system anchored in a particular sort of meaning to one that could no longer contain meaning. It is more challenging to identify a regime of untruth than to destabilize a regime of truth, so some additional tools are required. The problem is that the effort to destabilize a regime of truth does not have to come from anywhere in the sense that deconstruction allows the critic to use the representational logic of a text against itself. It can be a shot fired from nowhere, so to speak, because the claim to truth remains in the object to be deconstructed. Identifying a regime of untruth, however, requires a comparative value, a claim of truth outside of the representation in question. Three comparative values are available.

The first tool to provide such a comparative value with which a semiotic system can be criticized from somewhere is the taxonomy of semiotic systems and value presented in the last chapter. The very difference between the systems renders the features of each more apparent. Each type of value describes a mode of how signs can relate to each other, and they can be contrasted with each other. Although this allows for an untruth to be identified, it is a relative rather than absolute measure. And it is doubly relative in that it depends on the position from which the criticism originates as well as the on the theoretical system on which the location of that position is based.

The second tool is the historicisation of international society's semiotic development. The process of historical reconstruction highlights how instances that in themselves may have been contingent contributed to an adamant process of semiotic accretion. Not only can each regime be interpreted in light of the others, but it can also be

contrasted with the overall historical process that they jointly compose. From a hermeneutic perspective, the object of analysis is a narrative that moves through time, but the interpretation is itself a narrative that includes a temporal dimension. So while the first tool entails comparing some representation in a semiotic system based on some form of value to another form of value, this second involves comparing that representation to the narrative about the procession of these systems, which is described by the theoretical narrative. In other words, the first tool compares each system against the others, and this one allows each as a part to be compared with the sequential process they jointly compose.

Finally, there is the comparison between the world described by the rules of international society as representations of the world and the actions that subjects commit in virtue, in contravention or in ignorance of the signs. There is an indistinct and shifting interface between the material world and the world of signification (Lawson, 2006). Many of the signifiers in question have some material entities contained in their signifieds, and some material entities, like flags and fortresses, can be signifiers of certain ideational signifieds like nations and borders. To the extent, then, that the rules in question prescribe particular ways of ordering these material entities, relations of gap and overlap between the two worlds is a third source of comparison with which to reconstruct the respective trajectories of signifiers and the world they ostensibly signify through time with regards to international society.

The objective of deploying these three comparative contexts might seem contrary to the profoundly constructivist ontology presented in the preceding chapter, and if reality is so deeply semiotically and narratively constituted, there might not be any room for claims of untruth. But just as post-foundationalism offers a middle ground between crass empiricism and anti-foundationalism, relativizing truth claims with reference to other narrative and semiotic coordinates provides a middle ground between a naïve, logical positivist approach to truth and the absolute, post-modern rejection of metaphysics and everything in it (Puchala, 1995). It is simply a means of objectifying meaning by contextualizing it (Pouliot, 2007), with the caveat that the semantics of meaning are multidimensional.

Although the emphasis so far has been on the need to interpret, which is necessary in any case of semiotic analysis or historical reconstruction, and the post-positivist aversion to a nomothetic depiction of the object of analysis, the process of interpretation requires structure. Indeed, this is the purpose of invoking the strategies and aids above. But it is also possible and advisable to provide some standards to evaluate this interpretation. Even though I present a theoretical description, avoiding issues of causality, I must make the terms of the theory explicit and recognizable in an empirical context to maximize the description's credibility. In effect, this entails making a wager about whether the objects specified in the theory are actually to be observed and how they should look if the theory is credible.⁷⁴ This is analogous to the positivist notion of operationalization, but it differs in that it should specify points of correspondence between one narrative and another rather than between a conceptual construct and a reality independent of that construct. Ideally, my interpretation will be useful, interesting and important, but at the very least, it should be credible. Since the interpretation of the empirical material proceeds according to the kinds of semiotic system, counterfeit, production and simulation, from the preceding chapter, establishing criteria for whether the empirics match the theoretical description will consist of specifying the systems' key characteristics in empirically recognizable terms.

To recall, counterfeit systems are characterized by use value, which implies that the signs are obligatory and meaningful. Their obligatory character and meaning of these signs is provided by some sign(s) whose signifier-signified relationship is fixed, which provides fixed coordinates for the triangulation of the meaning of the other signs. This presents a problem in the context of a semiotic system where the relations between signifiers constitute meaning and those relations are arbitrary. And even once such semiotic anchors have been found, they must be translated into terms that are amenable to observation in the histories of the three rules described above.

⁷⁴ This should not be confused with Jackson's (2011) concept of wager. For him, "a wager locates and specifies three things: the researcher, the objects of research, and the character of the relationship between them" (35), so it is a concept that combines ontology, epistemology and the use of inquiry. The concept of wager here refers simply to the work's own standards of credibility, the terms of which it can be said to have successfully accomplished its own goals.

The ontology of international society provides the first clue as to how a counterfeit version of it can be identified. The last chapter described international society as a self-referential ecology of rules that relate to, and constitute, states. As a semiotic system, though, it is somewhat bounded in that there are conceivably aspects of social life whose signification does not rely on the rules and the semiotics of the international. In fact, if the semiotics of international society made reference to such an external sign, then it would not be entirely self-referential and could derive meaning from that sign. Meaning would then be derivative rather than emergent or illusory, and the rules of international society, then, could obligate in virtue of the meaningful coordinate. Consequently, one challenge in the examining the empirical material in the case of a counterfeit system will be to find an anchor to which the rules of international society refer but that is not dependent on them.

The characteristic of being derivative rather than strictly self-referential has another implication that should be evident in the material. If the system derives its meaning from a fixed source, then the rules should be formulated in more simple terms and there should be fewer of them. The reasoning behind this is fairly simple: if the signs have meaning, then there should be less need to decline (in the grammatical sense) their semantics through a broader range of syntactic contexts because subjects would know what they mean, what they are for and why the system has the structural features that it does. Debate and contention should focus on the relationship of the signs to the anchor rather than exhibiting patterns of ever-finer differentiation and subdivision of the signifieds.

There is a further characteristic that should be apparent in the discourse if the object is a counterfeit system. Namely, there may be debate and contention about the signs' pedigree, which might affect views of their validity, but there should be very little question about whether any given sign taken to be valid is obligatory. The obligatory status should be taken for granted. This feature is also implied by the presence of an anchor and the resulting fixity of the signifiers. That is, if the meaning is derived from a fixed anchor, tying signifiers to their signifieds, then obligation should simply be understood as a characteristic of valid signs. In terms of rules, we should expect less juristic or practical concern for 'bindingness', as the question of obligation is

usually labelled in discourse relating to international rules, which should be taken as a characteristic of meaningful rules as derived from the anchor.

These features should contrast quite starkly with those of the production system because the anchor signs will no longer be present. This entails that signs' meaning can no longer be triangulated with reference to them. Instead, the system will become increasingly self-referential and follow its own internal logic. Clearly, though, more precise signals of exchange value are required.

One observable indication that the system is operating on the basis of exchange value is that the legal discourse should justify itself in terms of itself. In other words, rules should be proposed and justified with reference to what the society needs and how the nature of the system supervenes on the form of its components. Whereas the form of the rules in a counterfeit system should be imposed by the form of the invariant anchor, the rules in a production system should directly impinge on each others' forms. Practically speaking, this would include discursive recourse to *raison d'état* and other ideas where the form of higher social kinds are taken to give imperatives for action, like mercantilism, reasoning in the form of security dilemma and so on. Of course, traces of such thinking will have to be found in the discourse pertaining to the three conventional rules listed above, not merely ad hoc. Although it is harder to substantiate observed absences than presences, the increasing self-referentiality of the production system should also lead to fewer invocations of metaphysical reasoning or teleological justifications for the form and content of the system. Indeed, this is an analytical corollary both of the loss of anchors and the tendency for signs' meaning to be bootstrapped rather than derived from other sources.

The loss of firm metaphysical anchoring for the signs should also lead to their proliferation. The reasoning is that if meaning has become destabilized, one can expect attempts to shore up the signs, and consequently the system, by further specifying existing rules with new ones. To the extent that the signifier-signified relation is arbitrary, which is generally the case and especially so for conventional rules, making meaning a product of the differential relations between signs, multiplying these relations by proliferating signs would be one way to try and infuse

the system with meaning. This is the logic of production in the production system. In terms of rules, this would imply more rules and more rules about rules. Obligation can no longer be taken for granted as an inherent, defining characteristic of rules; it must be established with rules of pedigree, and the rules of pedigree themselves will refer to other rules in the system.

In the multiplication of different signs to reinforce the fading reality of each, the type is what is being multiplied, but that is not the only form of proliferation to expect in the production system. There should also be proliferation of the tokens of signs. In other words, however one chooses to categorize signs, the categories should multiply as well as the instances within each category. The reason for this is a result of the tendency for meaning to dissipate. If there is no anchor to maintain the order of signs relative to each other, the signs also fail to order the subjects under them. Because they are no longer unique and can be reproduced, an inflationary logic arises whereby the signs are copied and appropriated in order to signify status, but the more they are copied, the less effective they are. Translating this into terms amenable to observation, the unique forms of the counterfeit system should be replaced by multiple but isomorphic forms. Instead of few particular rules, the rules should be numerous, general and multiplying.

The contrast between the production system and the simulation system is doubtfully as stark as that between the counterfeit and production systems because the simulation system is a production system that has achieved fruition. It is not a system losing meaning; it is the system beyond meaning. But unfortunately, poetic turns of phrase do not suffice to indicate correspondence between an abstract description and a world of subjects and their activity, so the expected observations need elaboration.

Both the counterfeit system and the production system include an account of their meaning: the counterfeit system derived its meaning from an external anchor, and the production system accounted for its existence with reference to its own ostensibly immutable form. The hyperreal simulation is different in that the question of meaning will be unintelligible. The question will be neither asked nor answered. As with the production system, the only way to account for the particular form of a

given rule will be by referring to other rules, but unlike the production system, there is no reference to the form or purpose of the overall system. In the terms of an observable discourse, there should be massive proliferation of rules without explicit discussion of their collective purpose, nor of the meaning of the activity of their proliferation.

Due to the decoupling of hyperreality from reality, there should also be an increasing gulf between signifiers and their ostensible signifieds. This is a consequence of the fetish for the signifiers that need not relate to any world rendered real with meaningful coordinates. There should be a palpable inconsistency between the world described by the signifiers and the signifieds as experienced. In terms of observable phenomena in international society, the rules should describe some absurd situations, and the further such absurdity is from the fringes of experience, the stronger will be the evidence of hyperreality. Further, this gulf should also have repercussions in terms of rules' capacity to obligate and how obligation is accounted for. Whereas the counterfeit system should deal with obligation as a self-evident attribute of meaningful rules and the production system subjects obligation to a logic that is attributed to the system itself, obligation will, like meaning, be a confusing topic in a simulated system of rules. If the signs have no meaning, and the signifiers are detached from knowable signifieds, one should expect the rules to which the semiotics correspond to be detached from the subjects they regulate/constitute, and if a rule is detached from subjects its capacity to obligate is undefined.

Another observable implication of the disconnection between signifiers and signifieds would be the same signifier used to denote increasingly broad ranges of actual situations in the world. That is, rules as signifiers will be applied as denotation to an ever-broader range of signifieds. And although the range of signifieds will not be fixed, there will be hierarchical values assigned to them, such that differential status is attributed to different signifieds that are all subsumed under the same signifier. This would indicate the fetishization of the signifier independently of the signified, which is a corollary of sign value.

Although the semiotic ontology is unfamiliar, and Baudrillard's concepts of semiotic value have not been applied to concepts of international rules before, there is yet

hope to recognize them in practice. Rules as signs can be compared with each other, they can be compared in time and instances in time can be compared with the overall historical progression. Beyond that, there are also indications that should be apparent in the discourse about how the historical subjects in question represent the relations between the rules of international society to allow distinction between the three types of semiotic system. A counterfeit system should be characterized by simple rules, an anchor sign and self-evident obligation. A production system should be characterized by self-referentiality between the form of the rules and the supposed meta-narrative as well as by their proliferation and a more complex system of declining questions of obligation. Hyperreality should be evident in the absurdity of the signified world relative to that described by the signifiers, lack of reference to and unintelligibility of questions of the teleological meaning of the system or of signs in it and a profusion of signs and complexity with fetishistic appeal and dynamics, which itself should be detectable in the games of status focused on them.

Without further ado...

This chapter concludes the preliminary considerations before the empirical analysis can begin. It began by explaining the epistemological stance to explain what kind of analysis is to be expected, what kind of knowledge will be produced and for what purpose. The analysis will consist of an interpretation, as is the case in social science generally, and although this interpretation will not include a comprehensive scheme to improve the world politically or otherwise, it should yield some interesting ideas about how to interpret the state of the world and how it came to be this way. The process of interpretation starts with recognizing the importance of cognitive objects and values in representation and social practice, and taking a principled stand in reference to them.

The next step, given the epistemological stance, was to develop a strategy to structure the narrative and arrange the historical materials in relation to each other. Since the theory refers to three successive types of semiotic system that display some amount of internal self-similarity, which simultaneously implies transitions between them, historical institutionalism is the first deployable means to help organize the

material. It is helpful because its concepts of path dependent periods interrupted by critical junctures display considerable ontological compatibility and narrative structure relative to the synchronic conceptual objects and diachronic process described in the previous chapter. In order to fill the narrative structure with elucidating historical instances, I will supplement the historical institutionalist frame with genealogical procedure to help in selecting examples that aptly and critically display the relevant episodes.

At an even more concrete level is the question of what to examine and how to extrapolate from limited glances at disparate material to the meaning of international society. This problem will be solved by studying the historical representations of three conventional rules and comparing the similarities among them in light of the concepts of counterfeit, production and simulation systems. Conventional rules are arbitrary and describe subjects' ideas about existing practices or states of the world, in contrast to teleological rules whose form is constrained by their content and are more future oriented. Conventional rules are preferable for what they reveal about what historical subjects represented the world they thought they were acting in. The three conventional rules I chose are the territorial sea, the MFN of international trade and nationality as a normative basis for statehood. These each play important and distinct roles in the semiotic system of international society and they relate to different kinds of activity conducted in the name of states. Therefore, similarities among their narratives and meta-narratives should be especially informative in regards to how international society as a whole has been normatively and semiotically constituted.

At the most basic level of research practice are the considerations of how to recognize the theoretical concepts in the data. There are several dimensions to substantiate the theoretical claims. First, there are the relations of signifiers to signifieds in reference to any particular sign. Then there is the relation of the sign to others in the system in question, and there is also the ability to evaluate the qualities of the signs in light of the overall historical progression. Finally, each kind of semiotic system should display different characteristics in terms of the quantity, complexity and fixity of

rules as well as in terms of their capacity to induce obligation, communicate status and represent real situations meaningfully.

After describing how to think about the world and how to look at it, all that remains to have a look and tell the story.

Chapter 4: International society as a counterfeit order: the semiotics of pre-modern political theology

"... the order which the righteous seek is never righteousness itself but is only order" (McCarthy, 1994, p. 293)

The peace of Westphalia is a towering sign in the meta-narrative of International Relations and, consequently, in the narrative of international relations.⁷⁵ It is the ostensible advent of sovereignty as we know it, which also makes it the beginning of international law, of international society and of many basic features of how the political world is still represented. Whereas there are often calls in the current literature for a moral constitution for international society or even claims that such a constitution exists in some document or other, the treaties that comprise the peace of Westphalia are often considered a kind of ontological constitution for international society (Glanville, 2013).

In order to deconstruct the narrative and to reconstruct the process of its composition, however, it is insufficient to accept the history as written or to let the meta-narrative determine the terms of its own narration. Rather, in cosmological fashion, the story must begin before the beginning. This serves two purposes. First, to the extent that the peace of Westphalia and, more importantly, the persistent religious wars that it largely ended did in fact lead contemporaries to rearrange the signs that represented their political world, it was a critical juncture. However, as discussed in the last chapter, a critical juncture is a breach in a state or trend, and just as every climax predicates rising action, the seemingly autonomous foundational event of international society was the denouement of a prior narrative. Although the story of International Relations tends to represent Westphalia as *creatio ex nihilo*, one must understand the language and story of pre-modern international society to make sense of the modern reaction to it. Second, the production and simulation systems to be described later require contrast to make their features and implications apparent. It is very difficult, if at all possible, to destabilize the semiotics of the hyperreality of

⁷⁵ Following the notion in the last chapter that 'writing history is the only way of making it' (Carr, 1961, p. 25), it should be clear that the events of 1648 and before are mere facts that only have the narrative status they do because of the meta-narrative. In other, more structural, words, the context impinges on the text.

international society without reference to a different, contrasting type of order. As with any sign, that term has no meaning without a relation to other comparable signs, so the work of describing variation simultaneously serves to establish identity.

The objective in this chapter is to use the three conventions briefly described in the last chapter, the three-mile rule of territorial seas, the MFN of international trade law and nationality as the normative basis for statehood, to establish that the semiotics of international society from the High Middle Ages until the late sixteenth to mid-seventeenth centuries corresponded to the logic of a counterfeit order. The principal, definitive characteristic of a counterfeit order is the attempt to duplicate a unique original. This unique original serves to anchor the meanings of the other signs in the system, binding signifieds to signifiers and thereby making signs obligatory. As I will argue below, the unique original was the kingdom of heaven, which refers to the divine order of Christianity in whose name the political narrative of the period was justified. The grammar of political norms and the signs used to represent them were derived from the semiotics of Catholic theology,⁷⁶ and the belief in the latter was the source of meaning for the former.

To make this argument, I will first present some general contextual features of the pre-modern social structure and representational commonplaces of pre-modern Europe, which is where the three rules germinated. In short, various individuals maintained claims to power over others in various contexts, but the semiology of it all was derived from how the profane world was represented relative to the sacred. This was reflected in, and reinforced by, the form of the three international conventions. Using three examples, the pope's division of the extra-European world, the seizure of the Santa Catarina and the later debate between Grotius and Selden, I will describe how the legal image of the sea reflected the theological politics of representation in the fifteenth century, maintained at the turn of the seventeenth century before being rapidly destabilized. Because the MFN was slower in becoming

⁷⁶ The term 'Catholic' is fairly anachronistic and did not signify the same things in this period as it does now. 'Roman' was the more common designation for the particular church to distinguish it from other Christian variants that existed at the time. 'Catholic' became more common with the increasing popularity of later denominations that defined themselves against the Roman church, like the Waldensians, the Hussites, Calvinists and Lutherans, and following that distinguishing practice, the anachronism is useful.

established and because the historical data is less extensive, it is not possible to develop examples in as much detail, but general trends in patterns of signification are still apparent. In particular, there are clear patterns of how and to whom tariffs applied, and how the MFN applied to them, as well as how the rule was used to signify the particularity of relationships in terms of gratitude, reward, punishment or subservience. Nearing the mid-seventeenth century, however, the signified of this rule became ever more abstract, general and reproducible. As for nationality and statehood, the examples are based on fairly distinct representational tendencies rather than specific events. The first relates to the representation of the empire and other political signs as manifestations or approximations of divine will, especially as evidenced in criticisms of this type of representation, like the *Defensor Pacis*. The second relates to how church-sanctioned powers represented and related to heretics and heathens with emphasis on the scholastic thought. Finally, I will examine the representations of the arch-proponent of divine right, Bodin, with the ascension of the House of Bourbon in France via Henri Navarre, who was born Catholic but converted to Calvinism, which he then abjured upon taking the throne. This last example foreshadowed many changes in how the signs of power and international society work that would come with the pan-European wars of religion and the transition to the production system.

Congregation before nation, Christendom before international society

Although the historical narrative of pre-modern Europe includes anomalous interludes and it was not a perfect counterfeit order, it was certainly uniform enough to deserve the title in an ideal-typical sense. The unifying motif was that the social world was and was to be modelled after the kingdom of heaven and according to the will of God. Obligation was ideally, discursively and representationally derived not from prudence or consensus, but from faith. Rule entailed divine sanction, and schismatics were those who misrepresented the will and words of God; secularity and representations without the divine somewhere in their signifiers were perverse, if at all intelligible.

Although the social components of rules and relations had always been present, 'international society' is an awkward term to designate the macro-political meta-narrative of the time because there was hardly any 'international'. Both decisive components of that concept, the nation and state-based sovereignty, were non-existent or insignificant. A few nations, such as the Castilians, the Scots, the Poles and the Magyars, represented themselves as cultural units with reference to linguistic and aesthetic self-similarity (Beaulac, 2000; Seton-Watson, 1977). Even where this type of identification was present, though, it diverges from that required for an 'international' for two reasons. First, most people led fairly parochial lives and simply did not have the exposure with 'foreign' in the form of difference or cultural others for language and cultural aesthetics to serve as signs of political affiliation. A peasant who never travels farther than the county market and has never seen a map of the world, however complete or accurate it could have been at the time, lacks other nations as concepts. Even those with more cosmopolitan experiences did not represent the social world in anything like nations. A Venetian merchant would define his identity in contrast to his Genoese competitors or pirates more than against 'Spanish' or 'French', which can only be used anachronistically until the fifteenth century. In most cases, the difference implied by identity did not apply in terms of nationality. Second, the others that did exist were represented in opposition to religious signs. German and French were far more abstract than Christian and infidel or holy and demonic. Conflict between adjacent co-religionists of the same language and culture, or between factions consisting of multiple language groups and cultures but different religions, were much more common than those where the factions constituted themselves with reference to the signs of modern nationality. The cultural homogeneity of most medieval and early modern Christian Europeans' experience was principally disrupted by Freud's narcissism of minor differences (Freud, 1930 [1961]) and reinforced by conflict over theological signs, like the crusades (Bartelson, 1995).

The other element missing in international society's signified is sovereignty as applying to anything other than God or kings, and the latter was derivative of the former in any case. With regards to 'sovereignty' as a signifier, Beaumanoir only coined the term in the thirteenth century (Bartelson, 1995), and it had nothing to do

with anything like a state as a political and territorial unit independent of any particular ruler. That concept did not appear until Machiavelli coined the term *lo stato* in the early sixteenth century (Nelson, 2006), and it did not become a sign with any currency until much later. Rather, sovereignty was an attribute of God, and the meta-narrative about how to divide humanity into parts turned on different conceptions of how divine sovereignty was transferred to humans and to whom specifically. That it would be conferred to a few ruling individuals, if not a single ruler, was, however, a commonplace.

Conceptually, the powers of kings and rulers were generally categorized under *potestas*, the right to command and enforce, and *auctoritas*, a more vaguely defined right to supervise and administer (Osiander, 2001).⁷⁷ And the relationships between them as well as who held them in what rank, but not their source, were also frequently disputed. Indeed, after the condominium of mutual dependence established between Charlemagne and Pope Nicholas II, there were repeated reversals of superiority in this relationship over the next four centuries. Each of these quarrels related to some practical powers, like the investiture of bishops for example, but those powers were only accessible by virtue of the symbolic efficiency of divine authority. Although the election of popes by the clergy came in the eleventh century and of emperors by prince-electors in the fourteenth, neither system would have been thinkable without the sanction and signs of the church. Of course, there were also kings who were formally independent of the emperor, like those of France and England. However, the integration of Christian symbolism into the signified of the French king is obvious in the title '*le roi très chrétien*', which had been granted by the pope in the fifth century to Clovis I and retained. As for England, the connection is equally clear. As soon as Henry VIII faced excommunication and dissociation from the Church of Rome, he promptly founded the Church of England with himself as its Supreme Governor. He even continued using the title 'Defender of the Faith' after Pope Leo X had revoked it. There was a similar logic to other Christian rulers' depictions of their positions in that there may have been differences of opinion about how each particular ruler derived sovereignty from God and through which

⁷⁷ These two terms and the difference between them correspond quite closely with those of *dominium* and *imperium*, which I discuss below in relation to rights over the sea during this period.

channels, but not whether God was the source of all sovereignty (Elshtain, 1990-1991). Thus, there was a clear use attached to the authority of rule: salvation.

Mono-faith but plurinational: Christendom as international society

Without nations and without sovereignty, there was not and could not have been an international society, but there was Christendom. Articulating the signified of that signifier was the principal discursive project of the pre-modern, macro-social meta-narrative.⁷⁸ The period of developing Christendom lasted roughly from the reconstitution of the Western Empire in the ninth century until the Thirty Years War finally ended the wars of religion. In the terms of historical institutionalism discussed in the last chapter, this was an identifiable interval pervaded by the redemptive use value of the counterfeit. While the signified of Christendom did change over the period, the change had a particular trajectory in which the integrity of the counterfeit deteriorated. Specifically, the trajectory was characterized by, first, a notion of Christendom politically manifesting a more or less unified Christian church. There were different representations of how to realize this, as I will show in terms of the contrast between Aquinas and Marsilius, but the form of the representation was preserved despite internal divisions until roughly the sixteenth century. After the collapse of the Eastern Empire and the discovery of the New World,⁷⁹ however, the representation of Christendom came to include the division between Christians and heretics as well as, and perhaps more importantly, among Christians such that it became a commonwealth possessed of internal subdivisions. There was one decisive limit separating Christians from heretics as well as several ways to separate subjects internally among territories and rulers. Nationality, however, was not yet a sign and carried no symbolic efficiency, so obligation was carried downward from God to ruler to Christian subject rather than from subjects of a 'national' type upward. I will describe the simultaneous division and unity with

⁷⁸ Using three hyphenated terms in a row is stylistically wretched but necessary for accuracy. I apologize.

⁷⁹ I use the term 'New World', despite being aware of the absurdity of the term, in order to avoid having to invent and implement a new semantic convention. The same applies to the usage of conventional dates.

reference to Vitoria and the notion of obligation and its direction with reference to Bodin.

Christendom had two features in particular that make it recognizable as a counterfeit order. The first relates to the form of copying an original. Christendom signified a social order in which the difference between the divinely ordered kingdom of heaven and the profane kingdoms of humanity would be dissolved as much as possible, such that the latter would emulate the former (Allen, 1951). The etymology of this gnostic replication can be traced back to the Bible. Ezekiel prophesied New Jerusalem as the unification of heaven and earth after the destruction of the first temple, and Revelations brought the idea into early Christian eschatology six centuries later. More famously, Matthew 6:10 makes a similar equation in the Lord's Prayer, 'Thy kingdom come, thy will be done in earth, as it is in heaven', which appears again practically verbatim in Luke 11:2. Indeed, reconciling the two kingdoms was one of Augustine's principal aims in *De Civitate Dei*, which was a touchstone for ideas about social life and its divine purposes well into pre-modernity.⁸⁰ The use of social organization, about which there was considerable consensus, was deliverance into heaven.

Christendom's second characteristic that makes it homologous with counterfeit is the ineffability of God. God ordained the heavenly kingdom, but He and His will were imperceptible and His full nature indescribable, which possesses Him and relationships to Him with symbolic exchange value. This also makes God and His kingdom apt anchor signs with which other meanings in the system could be triangulated. Ineffability also extends back to the Bible, when in Exodus 3:13-14 Moses asks God how to represent Him to the Israelites, and God simply replies 'I AM THAT I AM ... Thus shalt thou say unto the children of Israel, "I AM hath sent me unto you".' Fascinatingly, the solution to analyse God's nature, which itself was

⁸⁰ Another fascinating point about Augustine that I cannot pursue further are that his question and profuse answer were inspired by seeing the earthly kingdom in which he lived, Rome and its empire, be sacked by the Visigoths in the early fifth century. As a result, much of the text concerns apportioning blame for the apparent weakness of the more divine kingdom in the face of the infidels' success. The end of the period I describe here, as early modernity's wars of religion were breaking out throughout Christendom, is notable for the volume of similar discourses produced. Existential crises about the teleology of society seem productive moments in terms of efforts to rediscover the real (Žižek, 2002).

inaccessible, was basically semiotic. That is, the strategy was to look at signs derivative of God, like the constitution of humanity or human faculties, in order to learn something about what 'God' meant. Augustine was also a key figure in this respect, anticipating many aspects of Saussure's ontology and method in *De Doctrina Christiana*, including the terminology of signs, their arbitrariness and the sign-signifier-signified relation (Rao, 2006). Similarly, the very existence of God was frequently argued with a variant of the so-called ontological argument, in which God's existence is derived as a necessary consequence from the attributes of things that are not God, like the concepts of perfection, infinity or existence. This was famously Anselm's technique in the eleventh century and Descartes also recapitulated it at the height of the wars of religion. The difficulty of identifying an ineffable sign also explains how there could simultaneously be consensus about the anchor sign from which all meaning was derived and disagreement about the meaning of that sign. There was no doubt that pursuing righteousness and emulating the kingdom of heaven was what gave Christian society meaning, but what exactly that pursuit entailed was less clear.

In order to reconstruct the semiotic order of Christendom and how it arranged attendant signs into an internal grammar, one must perceive the differences between them. Importantly, however, there was not an elaborate catalogue of rules and customs relating to nationality and statehood, as is to be expected in a system where meaning is anchored and obligation is based on the moral compulsion of a divinely sanctioned natural law rather a self-referential system of rules and consequences. Therefore, the qualities of this system must be perceived with reference to different formulations of natural law, its consequences for how to divide subjects and changes in the administrative structures and thought of Christianity, which informed notions of natural legality. To accentuate some relevant differences, I will describe three examples where an incontrovertible difference appeared and forced the articulation and representation of Christendom.⁸¹ The first is the contrast between the Thomist

⁸¹ To be sure, the other two rules I treat below relating to the territorial sea and most-favoured nation status are also included to reveal qualities of Christendom as a counterfeit order. However, they are more useful to discern its form by showing how it abuts questions that do not directly apply to replicating God's ideal commonwealth on Earth. The three examples I present here are more relevant

doctrine of Aquinas, favoured by the church, and the *Defensor Pacis*, which presented a social unity under God with the challenge of a society growing organically from below. The second is the encounter with Christendom's radical other in the form of the peoples of the New World, who had not even heard of the Christian God. The third is Bodin's articulation of divine right, which is an early treatment of how to deal contending factions where each appropriates the signs of Christianity and each claims divine authority.

Augustine had established the teleological goal of Christendom, which was to emulate the kingdom of heaven, but this project was complicated by the confusing division between the church as a clergy with administrative powers and the empire as a temporal administration with a divine purpose. For the church, power came from God to the pope for him to delegate among rulers and subordinate clergy. This is implied by the pope's titles 'Vicar of Jesus Christ/God' and 'Successor of the Prince of the Apostles [that is, Peter]'. This view had already caused a rift with the empire as a temporal, political order in the crisis of investiture and led later to the Walk to Canossa (c. 1077) and was eventually 'resolved' at the Concordat of Worms in 1122. The concordat bifurcated the normative authority of the empire by placing the clergy under the jurisdiction of the pope and feudal lords under the emperor (Nelson, 2006). But if the idea of Christendom was to unify Christians in a single kingdom and to approximate the kingdom of heaven with it, this cleavage was also a problem.

Thomas⁸² seemed to provide a viable solution of how Christendom could preserve its mission and its viability as a signifier despite the seeming contradictions in its signified. This was a pressing need because, after Frederick II died in 1250, the papacy refused to crown any new emperor, and there was a common notion that the Antichrist and apocalypse would come when the empire fell (Osiander, 2001). Further, the Mongol Empire was spreading across the continent from the east and had already taken Roman Catholic cities in Poland and Hungary, giving the

to Christendom's internal structure; that is, what an ideal commonwealth would be and whom it would include.

⁸² In case it was not clear, 'Thomas' refers to 'Thomas Aquinas', but calling him 'Aquinas' would be confusing since that refers to a place. Similarly, I do not refer to Augustine as 'Hippo' nor to Marsilius as 'Padua'.

prophecy a certain immediacy.⁸³ Thomas seemed to provide an answer that would preserve the primacy of the pope, the authority of the emperor and avert the apocalypse. To do so, he amended the idea of Christendom in two ways. First, he reconfigured the signified of empire and church such that there was no opposition. This entailed first reasoning upward, like his forebears Augustine and Aristotle, that the family is the basic social unit, and multiple families aggregate into neighbourhoods or villages, which aggregate into cities, which aggregate into provinces, which aggregate into the empire (Aroney, 2007).⁸⁴ What unified the empire is the faith, so there could be unity despite plurality. Whereas the image of the kingdom of heaven is indivisible, this allowed the sometimes disjointed and fragmented world of multiple feudal rulers to coincide with the overarching notion of Christendom. Further, it allowed those running extortionate rackets in fact based on patronage, including the pope and all feudal lords, a symbolic architecture on which to project their rules and deeds. Thomas's second innovation was to preserve theology's primacy as the mode of interpretation, and the pope's corresponding position as the supreme interpreter, seemingly without compromising the emperor's temporal authority. The exact formula was that God is the ultimate source of sovereign authority, but the clergy are His most devout servants, so they are the ultimate interpreters of His will and are to be obeyed at all times. Nonetheless, it is a 'command of justice' to obey temporal superiors as long as they do not contradict God's will, and such commands have the same force as a law of nature, because God set the latter and rulers move justice just as God moves nature (Dyson, 2002). Thus, the standing rule was to obey the emperor and properly Christian temporal authorities, who could only be contradicted by superior interpreters of God's will in the form of the clergy (Nelson, 2006; Simons, 2003). Thomas was canonized in 1323, only about half a century after his death, and his system became dogma.

The *Defensor Pacis* was a challenge to the predominant representation of Christendom as a community of Christians with all sovereignty derived from God and mediated by the clergy, and it came at a difficult time for the Roman church and

⁸³ I will focus on Thomas and Marsilius's writings about how to structure the empire, but for fascinating discussions of how Christendom faced this other, see Bowden (2005) and Keeley (1990).

⁸⁴ Aristotle stopped at the level of the city-state.

the empire. When the treatise appeared in 1324, a year after Thomas's canonization, Christendom was dealing with several crises. First, the climate was cooling from the 'medieval warm period', which brought the Great Famine. According to some estimates, up to 10 per cent of the population of Europe died *per year* from 1315 to 1322 (Jordan, 1996), which raised obvious problems for the sustainability and symbolic efficiency of a system that relied so heavily on the image of providence. Second, the Ottoman Empire was progressively swallowing the Byzantine Empire. Although the Holy Roman Empire and the Byzantine Empire, with their respective churches, had been more hostile towards each other than not since the schism in the eleventh century, watching Muslims conquer Christians, even heretical ones, did not help to maintain the teleological narrative consisting of a Christian community coming together and approaching divinity with the right kind of normative order. Third, the Roman church, which propagated and maintained the discipline around the image of Christendom, was itself in a state of disarray. On the one hand, the church was preoccupied with persecuting the Cathars and the Fraticelli, who like their Waldensian predecessors and Hussite successors, advocated a more modest and ascetic church to shepherd Christians more authentically into the kingdom of heaven.⁸⁵ On the other, the discord of the Roman church was evident from the fact that the pope, its leader, was not even in Rome. At the turn of the fourteenth century, Philippe IV of France and Pope Boniface VIII were busy claiming supremacy over each other and accusing each other of sodomy and heresy. The conflict was precipitated by disputes over which of them was temporally superior and was followed by a complicated three-way dispute between the French king, the emperor and the pope over who was responsible for and empowered to set the rules for Christian bodies (their souls belonged to God and were tended by the clergy). Into this maelstrom of crisis, Marsilius released the *Defensor Pacis*.⁸⁶

⁸⁵ Umberto Eco, a great semiotician in his own right, presents an entertaining description of the persecution of the Fraticelli, the contrasting wealth of the church in a time of famine and the semiology of Roman Catholic theology and its relation to Aristotelian thought, which prefigured the *Defensor Pacis*, in his novel, *The Name of the Rose*.

⁸⁶ I must omit a fair discussion of the point, but just as the Mongol Empire represented the radical other and the elephant just outside the room for Thomas, Marco Polo's popular narrative of his travels to China might have served a similar function in Marsilius's generation. Although there had been indirect contacts with China through merchants prior to him, Polo was the first to provide any kind of signified to China as signifier in the popular imagination.

The *Defensor* agreed with the dominant mode of representing the church at the time as including more than just the clergy as an administrative institution separate from the believers; rather, it was the sum of the clergy, the congregation and the New Testament as basic doctrine (Marsilius of Padua, 2005 [1324]). Marsilius also follows Thomas's narrative, and Augustine's and Aristotle's by extension, of the family being the basic social unit with larger groups, like the neighbourhood and the city, arising out of the amalgamation of families, each benefitting from the others. The teleology of these temporal arrangements as a mode of approaching paradise and divine grace is also clear: '...there is something else which those who share a civil community need for the status of the world to come, promised to the human race through the supernatural revelation of God ... the worship and honouring of God, and the giving of thanks both for blessings received in this world and those to be received in the future world as well' (Marsilius of Padua, 2005 [1324], p. 20). However, it diverged starkly from the Thomist and Roman depiction of the church and the pope as the conduits of God's sovereignty. They were rather depicted merely as 'teachers' and accorded only the responsibility of helping the congregation to interpret the rules of divine justice as included in the New Testament. Further, Marsilius argued that an elected monarchy, preferably excluding indefinite terms of rule and heredity, was most likely to yield a virtuous community.⁸⁷ Temporal law, for Marsilius, could only emerge from the 'authority of the primary legislator', comprising a majority of the 'body of citizens', whose vote was to be weighted according to their social rank (Marsilius of Padua, 2005 [1324], pp. 67-69; Nelson, 2006).

The depiction of Christendom in the *Defensor* as a community constituted from the bottom up by common piety, with the church relegated to an educational role, did not suit the Roman church at all. As a result, Marsilius fled to the court of Ludwig of Bavaria, where others who interpreted the church's role in an order based on Aristotelian natural law, like William of Ockham, had also sought refuge. Ludwig had little to lose because he was at odds with Pope John XII over imperial succession

⁸⁷ This is often interpreted as a pre-modern argument in favour of democracy (Everton, 2003). Marsilius, however, explicitly condemns democracy on the grounds that it can only lead to a populist community lacking virtue where anything would be admissible. One could interpret this anachronistic modern reading, then, as an indication of the currency of 'democracy' in modern discourse as an empty signifier and the desire to project its roots further into the past than is warranted (Laclau, 1996).

and administration, which led to his own excommunication also in 1324. And a weighted election of a monarch to rule for and over the church, defined as the congregation and the clergy, corresponded well with the idealized self-image of a Holy Roman Emperor. Shortly after having himself crowned emperor in 1328, Ludwig deposed and replaced John in any event.

The political behaviour of European Christendom was clearly just as disharmonious as the ideas about what that behaviour was supposed to mean and the normative logic attributed to it. But differences in how to represent the ideal form of Christendom also highlight the irreplaceable content of the sign. Aquinas and the church argued for their preferred vision of Christendom by contrasting it to a godless or heathen order that lacked a strong clergy to maintain the consistency of its path and mission. Similarly, when Marsilius develops his historical and progressive teleology, he contrasts Christendom with pious societies of the Old Testament, when God was still merely testing humanity and had not yet conferred divine grace on it in by way of the proper form of organization. They were also in accord that Christendom had a purpose and what the purpose was. As Aquinas formulated it, ‘...what worldly and passing honour can resemble that honour by which a man becomes a citizen of the kingdom of God and a member of God’s household, and through which he is numbered among the children of God and attains with Christ to the inheritance of a heavenly kingdom?’ (Dyson, 2002, p. 27). And Marsilius agrees, ‘...by the kingdom of Christ in this world ... [the saints] understood the teaching of the faith, and government in accordance with that teaching toward the kingdom of heaven’ (Marsilius of Padua, 2005 [1324], pp. 164-165). Christendom was a social organization that existed to move humanity closer to the heavenly kingdom. The protagonists conducted wars and pogroms over the different meanings of the their activity, but they shared a conception of their order’s immutable purpose that gave that activity meaning, and the vociferousness of the discord was perhaps the best indicator of its strength.

Given the similarity of what Aquinas and Marsilius were proposing, there was much more semiotic distance between Christendom and an international society of states as ends in themselves or as a means to maximize the power of their rulers, as

Machiavelli articulated at the beginning of the sixteenth century, than between the two versions of Christendom. Nonetheless, the discord about how to structure Christendom internally continued and worsened after Marsilius with, first, the Great Western Schism, yielding 3 concurrent popes, and then with the popular heresies of Wycliffe and Hus. The Council of Constance in 1414-1418 allowed the protagonists of the Schism to realign the actual form of the church with the unity in its doctrine by reducing the number of popes to one and ritually burning some heretical writings of Hus and Wycliffe as well as Hus himself. The Hussite wars that followed Hus's immolation were important for their extent, ranging from Wurzburg to Danzig to Hungary, for the fact that they emanated from around Prague, a former imperial capital and important city in the empire, and because of the obvious symbolic efficiency of Hus's critique. However, this dissension did as much to reaffirm the unity of the empire as to reveal its divisions. Indeed, the Hussites were eventually defeated by a pan-European imperial force. Such conflict did little to destabilize the idea of replicating the kingdom of heaven because both sides were fighting for exactly that.

Ex-communities: representing Christendom's others

In contrast to Christianity's internal others and narcissism of small differences, external others provided for a stark contrast that destabilized the supposed teleology of Christendom. Therefore, they were a much stronger challenge to the counterfeit system. Two such others appeared and instigated both an identity crisis within Christendom and a proliferation of efforts to rearticulate it. First, the Ottomans took Constantinople in 1453, ending the Byzantine Empire once and for all. Although the Eastern church and the Byzantines were the original schismatics for western Christians, losing the Eastern capital to a Muslim foe caused considerable introspection in the west, with one imperial representative, who was attending a congress to discuss the empire's reaction, remarking that 'Christendom has no head, whom everybody is willing to obey. ... We look on Pope and Emperor alike as names in a story or figures in some picture' (qtd. in Wight, 1977, p. 134). Second, Henry the Navigator and other Iberian sailors were pushing the boundaries of the known

world outward, beyond Christendom's known others to those who had never even heard of the Christian God or his kingdom.

The encounters with radical others was not only important for the articulations of how to organize Christendom that it inspired, but also because the type of those articulations changed. Whereas the theses of Aquinas and Marsilius certainly prescribed signs of difference to apply to subjects in order to divide them politically with reference to Christendom, the rules they described related to ethical conduct in light of theological reflection and the exegesis of canonical texts. They based their depictions on Aristotelian notions of natural law, but they were not legal treatises as such. To the extent that the semiotic ontology of how rules constitute states above relies on legal rules, this is an important shift in this history of international society in that Christendom shifted from a replica to a legal construct. Although biblical teleology and emulating the kingdom of heaven continued to provide the semiotic resources to anchor the system, the shift to a legal order was a prerequisite for the later shift to a self-constituting and self-referential legal order freed of any anchor sign.

Although the most elaborate representations of Christendom as a legal sign to define some subjects against others came after the discovery of the New World, they had their roots in an earlier encounter with an other. Innocent IV had already started to describe the rules applying to relations between Christians and infidels in the thirteenth century in response to the Mongol invasion of territory occupied by Christians.⁸⁸ Some of Innocent's ideas, such as the notion that infidels have a right to rule themselves, were recycled when the question arose again upon discovery of the New World, but the most important aspect of his representation of Christendom became a structural feature of the system and was reproduced implicitly. This feature was the division between Christians and infidels because it allowed both for the continuation of the counterfeit beyond contact with the peoples of the New

⁸⁸ Innocent IV also wrote directly to the Khan, suggesting that the latter convert to Christianity and atone for attacking Christians to avoid God's disfavour. The Khan also replied to the effect that, if God scorned the Mongol Empire and its conquest, He would surely stop it, so Innocent would be advised to come to the Khan's court and submit to the holier of the two kingdoms (Bowden, 2005). In historical terms, this is merely tangential trivia, but the parallel modes of self-identification also indicate that this was perhaps one of most important critical junctures of an alternative, counterfactual history.

World while simultaneously introducing a notion of sovereignty that would erode the counterfeit.⁸⁹

Vitoria was a prominent exemplar of these two tendencies, and his depiction served at once to reinforce the counterfeit as well as to inform the later production system. In terms of perpetuating the counterfeit, he agreed that Christendom existed to secure the salvation of souls (Cavallar, 2008). Indeed, the question he and other Salamancan scholastics sought to answer, sometimes in response to direct questions by the emperor or the Spanish crown, related to the rules that were to guide the Christian conquest of heathen lands. This very division of Christian-heathen, saved-lost, savage-civilized reinforced the types of subjects proposed by contemporary Christian doctrine and the relations of super- and subordination that it prescribed between them. Vitoria's thoughts on just war are a prime example. Just war was, for him, a prime indicator of sovereignty, so whether the heretics of the New World were sovereign depended on their ability to fight a just war. In order for war to be just, it would have to conform to natural law, which included but extended beyond divine law, so reason was a more important criterion than faith (Barthélemy, 1904). Vitoria equated the heretics of his generation to the Saracens of the thirteenth century and, following Innocent IV, he deemed them reasonable enough to be protected from domination such that a just war could not be fought against them strictly for the glory of the Christian empire (Vitoria, 1917 [1532]). However, because divine grace and the natural order reinforce each other, and the natives did not partake in enough of the former, the infidels were unable to engage in a just war against Christians and were, therefore, not properly sovereign (Anghie, 2005; Bartelson, 1995). Vitoria clearly maintained a division of peoples according to faith and proposed a natural order in which the Christian people would eventually prevail, for if one side could

⁸⁹ I account for the transition from a counterfeit to a production system with reference to how meaning was structured and produced such that the content is mostly interesting for what it reveals about the structure. The encounter with the natives of the New World was principally important for how it affected the structure by reinforcing Christendom's unity while simultaneously introducing some internal divisions. Freud (1930 [1961]) presents a fascinating alternative narrative that focuses much more strongly on the content. According to him, the encounter was significant for showing how happiness could be achieved *without* God's favour or even knowledge of Him. Compounded with the brutality of many practices of proselytization and the amplification of displeasure and strife among the natives after conversion in many cases, this led to a crisis for many Christians regarding the content and purpose of Catholic doctrine.

declare war and the other not, then the conquest of one by the other is a matter of time. In that sense, he was certainly perpetuating the teleological goal of Christendom, such that the profane realm was still a flawed, but improving, copy of the heavenly kingdom.

Vitoria also reveals the unity and purpose of Christendom in terms of the relation between the pope and the emperor. In response to expansive claims that either the emperor, by virtue of being the supreme political ruler of Christians, or the pope, by virtue of being Christ's vicar, would have dominion over the whole world, including the heretics of the New World, Vitoria denies both and clarifies the relationship between them. The pope was the higher of the two because he was in a better position to identify laws that would produce sinners, which would bring the Christian order further away from its goal. Indeed, though he was to make seldom use of it, the pope could overturn such laws and depose impious princes (Vitoria, 1917 [1532]). The emperor, on the other hand, was merely a king of kings, so to speak. This role was important in terms of promoting the unity of the Christian empire, so he was at best in a position of *auctoritas* but not *potestas* relative to subjects beyond the empire.⁹⁰ Thus, the teleology of Christendom prescribed the proper form of rule, and the world of subjects was to be divided accordingly.

While Vitoria preserved the unity of Christendom by virtue of its purpose, his representation of it also contains some notable internal cracks that became much more pronounced in the subsequent production system. This was without doubt related to some changes in the real, rather than representational, world, since Aquinas and Marsilius. Between the early fourteenth and early sixteenth centuries, the patterns of rule in Europe had changed, and there were ever more questions about the verisimilitude of the counterfeit and whether it would and could ever emulate the revealed kingdom of heaven. Aquinas and Marsilius lived in a world of, at times, multiple popes and a relatively strong hierarchical arrangement of rule in Europe. Despite disagreements about which individual was to carry it, the label of

⁹⁰ In the course of explaining the respective rights of Christian rulers and the New World heretics, Vitoria curtails the emperor's powers greatly simply in the course of the argument by answering questions no one had asked. In an episode familiar to anyone who has ever had a grant extension denied, in 1539 Emperor Charles V sent a letter to de Soto, prior of Vitoria's convent, asking the clerics to relinquish all their materials on the 'Indian question' and to stop writing about it (Cavallar, 2008).

pope was equivalent to Christ's vicar and the spiritual leader of Christendom, or at least of the more extensive western part of it. Grave theological dissent, as presented by Wycliffe, Hus and Ockham was all the more notable for its rarity. By Vitoria's day, such criticism was becoming a more mainstream phenomenon. Luther, whom Vitoria criticizes directly, had posted his Ninety-Five Theses in 1517, by which time the Anabaptist movement was gaining momentum in central Europe. The coherence of the empire as a symbol representing some coherent social unit under a single, if diffuse, system of rule was also diminishing. Francis I in France was allying with the Ottoman infidels, and Henry VIII of England had broken with Rome in an effort to secure his own lineage. Castile and Aragon had united to eject the Moors from Iberia, and the pope had *divided* the world in a sense between the kingdoms of Spain and Portugal with the Treaty of Tordesillas.⁹¹ Vitoria could still coherently discuss Christendom's purpose in light of such changes, but its form as a more or less unified empire had to be adapted. The real was imposing itself upon the image, and because the image still had the pretence of meaning, such an imposition was still effective.

Vitoria's response to the increasing division of even Christians in the real was to posit a plurality of Christian commonwealths and a commonwealth of commonwealths that encompassed them all. The whole world (*totus orbis*) was a global commonwealth, such that humanity was naturally unified, and the rules that applied to it as a whole were derived from *ius gentium* (Simons, 2003). That these rules were still strongly based on the Christian God is apparent in two qualities. First, *potestas*, in terms of the ability to make rules, depended on the image of God, so it could only arise where an appropriate image of God was present, analytically excluding heretics (Bowden, 2005). Second, one of the basic rules of Vitoria's *ius gentium* is the duty to preach the Gospel (Wagner, 2011). Further, assuming that Christians have performed their duty reasonably and zealously, rejecting the Gospel was mortal sin (Vitoria, 1917 [1532]). That is, Christendom was bound to promote the

⁹¹ The Treaty of Tordesillas was, indeed, a division, but it was not strictly divisive from the perspective of Christendom as a counterfeit order. I will explain in more detail below in the context of the rules of maritime sovereignty. To foreshadow the point, it is very telling that the Portuguese and Spanish rulers sought and received an opinion from none other than the pope about rights of exploration beyond the known boundaries of geographical Christendom.

counterfeit, and those still outside the kingdom of man and diverging from the kingdom of heaven had a duty to accept it.

While the eschatological aspects of Vitoria's depiction of Christendom were still fairly consistent with Thomas and Augustine, he simultaneously tried to introduce some capacity for internal division in the unified whole. Again, his depiction of the rules applicable to war reveals how the counterfeit of the kingdom of heaven was fragmenting into multiple parts. Specifically, any 'perfect community' could declare war to defend its property, its honour or to pre-empt a greater expected wrong, provided the war did not damage the global commonwealth (Vitoria, 1917 [1532]; Wagner, 2011). Given the ontology presented above, in which international society as a legal order was equated with the structure of a Saussurean semiotic system, it is also remarkable that Vitoria defines the perfect community in terms of the form of its legal disposition. Namely, a perfect community is one that 'has its own laws and its own council and magistrates' (Vitoria, 1917 [1532], p. 169). Further, the structure of Christendom can be magnified such that smaller communities of the same structure appear within it, which is apparent in the emperor's status as the prince of Christendom, but 'kings who are subordinate to the emperor can make war on one another without waiting for the emperor's authorization' (Vitoria, 1917 [1532], p. 169). In this internally divided depiction of Christendom, in which the larger image becomes more fractal and admits multiple copies of itself at smaller scales, is also the seed of the production system, where the original becomes indefinitely reproducible.

Pars pro toto: universal kingdoms in miniature

As the sixteenth century progressed, the tension in Christendom careened towards a crisis of meaning. The image of a unified body of Christians moving through history towards the kingdom of heaven became increasingly distant from observed events, which seemed to be moving in the other direction. Vitoria had lived to see Luther's ideas spread through the empire and to see the emperor ban Anabaptism on pain of death. The Roman church as the cord between the divine kingdom and temporal life was being questioned, but it had not yet been torn. Shortly after Vitoria's death, however, the singular theological basis of the political imaginary started to crumble. Vernacular bibles were spreading rapidly and generating sentiments of particularity

(Anderson, 1983). Beyond bibles, protestant theologians, like Luther, Calvin and Knox were writing and printing works in vernacular languages that not only presented ideas about how to achieve salvation independently of the emperor, the pope or reigning princes, but in many cases advocated deposing 'idolatrous' rulers (Allen, 1951). Worse still, from the perspective of those advocating Augustinian Christendom, were those like Castellio, who advocated mutual tolerance and the possibility for many roads to lead to salvation, which was heresy that resisted representation in diametric terms. Machiavelli's representations of political life, in which religion was an incidental, tactical consideration, were much easier to vilify unequivocally, but they were no more compatible with the symbolic foundations of Christendom.

The schizophrenic sophistry that these discursive conflicts and their military equivalents⁹² impelled was perhaps best displayed by the ascension of Henri Navarre to the French throne as Henri IV. Henri was a Calvinist Huguenot from the house of Bourbon, who became king by marrying the Roman Catholic daughter of Henri II and Catherine d'Medici and by virtue of arcane rules of succession. His commitment to the pope and the Roman church was largely instrumental (Dickerman, 1977), although he did convert to Roman Catholicism before his coronation. After all, he legislated as a Catholic convert for the Huguenots' religious freedom in France in 1598, and his quip that 'Paris is well worth a mass' may be apocryphal but the attribution is not implausible. By the late sixteenth century, *Rex Christianissimus, le roi très chrétien*, the Most Christian King was, in fact, a heretic. The counterfeit was becoming less than a copy; rather, it was a fraud.

Into this reality of patently disintegrating Christian unity, Jean Bodin provided a last, desperate attempt to save Christendom. However, he effectively proposed a multiplicity of sovereign Christendoms, which contributed to the deterioration of the counterfeit in fact. Bodin is an especially apt source for contemporary representations

⁹² Covering so much history and narrative in so little space does not, unfortunately, allow for treatment of the suffering subjects inflicted on themselves and each other. It bears remembering, though, that the deterioration of Christendom's unified image also yielded decades of butchery and congenital warfare. Again, the value of the counterfeit system lies in the relatively consistent nature of its purpose and the stability of its meaning, but I make no atavistic claim about its romantic or moral superiority. The cruelty inspired by a counterfeit system is not gentler than that in hyperreality, only more earnest and, because of the nature of the earnestness, more meaningful.

about what rules applied to social organization and its purpose because he, like Henri Navarre and Europe as a whole, was theologically schizophrenic. He was tried for heresy in 1548, only a few years after having joined the Carmelite order, whose vows he renounced four years later while obtaining a doctorate in theology in Geneva, which was a Calvinist stronghold at the time, and though he presented the pope as the only intercessor between the various princes and God, he was imprisoned for refusing to profess Roman Catholicism in 1569 (Rose, 1976). Despite his apparent ambivalence, there is little doubt as to the teleology he assigned to social organization and the meaning of sovereignty, which is a concept he indelibly stamped. Indeed, in the first chapter of his *Six Livres*, which he starts by describing the purpose of the *république*,⁹³ he states that 'as much as by the goodnes of the end we measure the worth and excenllencie, as well of Cities and Commonweals, as of all other things: so that by how much the end of every Citie or Commonweale is better or more heaven-like, so much is it to be deemed worthily to excell the rest' (Bodin, 1606 [1576], p. 3). Despite the turmoil in Europe, in France or in Bodin himself with respect to the substance of Christian doctrine, the image of human subjects coming together and striving to emulate the kingdom of heaven remained intact.

Bodin also allowed for the sub-division of Christendom into multiple parts by means of divine right and sovereignty, which are signs that he impressed upon the discourse about political organization ever after. Although divine right sounds like an idea that could have been attributed to Aquinas or Augustine and that would continue to perpetuate the counterfeit of the kingdom of heaven, it was a herald of the production system. The image of divine right is that the king becomes a signifier for divine power, so royal sovereignty is penultimate before the sovereignty of God. But whereas the older ideas of Christendom represented it as a single hierarchical structure with little outside and then as a single body circumscribed by a multiplicity of heretical others, an image of divine right that admits of many kings brings the multiplicity inside Christendom. Each king's sovereignty is a counterfeit of God's,

⁹³ It would be easy to read too much into the etymology of *république*. Bodin placed people, precisely men, resolutely under princes and princes under God. Indeed, Knowles choice of 'commonweale' as a contemporary translation indicates that the signified is closer to a corporate social body than a notion of collectively and consensually established rules, which the notion of divine right would render absurd in any case.

but also, in a sense, they are all consequently identical copies of each other's sovereignty. Bodin describes them in these terms:

nothing upon earth is greater or higher, next unto God, than the maiestie of kings and soueraigne princes; for that they are in a sort created his lieutenants for the welfare of other men ... we may in all obedience respect and reverence their maiestie, and not to thinke or speake of them otherwise than of the lieutenants of the most mightie and immortal God: for that he which speaketh evill of his prince unto whome he oweth all dutie, doth iniurie unto the maiestie of God himselfe, whose lively image he is upon earth (Bodin, 1606 [1576], p. 153).

While sovereignty here applies to men (sic), it is a quality they have as images of God. Consequently, they are taking on the role of emperor or pope, depending on the version of the counterfeit, as depicted centuries prior.

Bodin, however, was not the most fervent proponent of kings' divine right. That distinction belonged to Bodin's contemporary, William Barclay, who considered God to be the only conceivable source of any human authority (Allen, 1951). Bodin, on the other hand, allowed for no authority to contravene natural or divine law, while still admitting for subjects to acquire the right to command from peers according to means within those limits at a level below kings and without sovereignty. Still, for the purposes of reconstructing the development of current international society, Bodin is the more significant figure. Whereas Grotius refers to both Bodin and Barclay a few decades later, Vattel, who will also be an important figure in articulating the production system, makes repeated reference to Bodin without mentioning Barclay once.

It is clear that Bodin derived sovereignty from God and apportioned it to kings as the only approximations of divine power on earth, but this depiction of sovereignty is worth examining more closely both because it is frequently invoked in the subsequent systems despite being utterly dissimilar to the image as it was later applied to states. Three aspects are particularly worth emphasizing. First, to depict the image of sovereignty, Bodin opts to emphasize relationships of difference in diametric terms. Whereas the production system would define sovereign entities in relation to each other and the simulation system is neither able nor willing to admit

definition, this late attempt at counterfeiting presented sovereignty in terms of clear super- and subordination. He includes such semantic dyads as lord-slave, master-servant and prince-subject, such that each sovereign individual can be completely sovereign by virtue of his relation to God and retain absolute power to command without requiring reference to others of like status. This allows for the counterfeit to continue deriving meaning from its anchor sign without meaning having to be constituted relationally through several parts. There *could* still be a single Christendom, but it just happens to be the case that there are several. Second, sovereignty pertains to individual subjects. The subordination of many subjects under the one is a direct and fairly concrete relationship.⁹⁴ 'King' simply contains the two signified aspects of sovereignty derived from God above and exercised over subjects below. It is categorical and indivisible, and it cannot be attributed to different abstract entities in quantities of more or less. Finally, it is immutable. Whereas it is a commonplace of the postmodern, hyperreal discourse about sovereignty to present it as a norm that is contingent and variable (Beaulac, 2003; Glanville, 2013; Grovogui, 2009; Howland & White, 2009; Kelley & Kaplan, 2009; Krasner, 1999), Bodin depicted it as a far more permanent status. Sovereignty rested in the ability to give commands or laws, which were simply standing commands. And Bodin devotes a chapter to warning against the dangers of changing laws or mistaking novelty for value, because 'We ought ... to imitate and follow the great God of nature, who in all things proceedeth easily and little by little ... as that no violent force or course therein appeareth. But it be oftentimes dangerous to change the laws of an estate or Commonweale' (Bodin, 1606 [1576], p. 475). As a quality derived from God, sovereignty was as invariable as He.

Because Bodin depicts sovereignty as a permanent, particular and personal attribute derived from God, he denies it to nations, whose existence he nonetheless recognizes. Indeed, he frequently includes exactly the term 'nation' and several specific instances of them, including Jews, Saxons, French, Huns, Franks, Tatars, Germans, Egyptians, Turks and so on. Generally, he invokes particular nations as historical examples to

⁹⁴ Bodin does consider other forms of social organization and authority, but his judgement falls clearly in favour of monarchy, unless the king should contravene the law of God or nature, but this he calls tyranny.

reinforce a general point about wise government or natural law. Bodin never defines nations categorically, but he does provide a few hints as to what the term denotes. Babylon, he suggests, should be considered a nation because it was too expansive territorially and demographically to be considered a commonwealth (Bodin, 1606 [1576], p. 10). The Saxons were distinct for their lineage and the Jews because of their religion. Bodin depicted Germans, the Goths and the 'Northern peoples' as nations with smaller national groups, like the Alemans, the Lombards, the Ostrogoths and the English nested within them. He also suggests that a king who ignores the character of the nation(s) under his command risks violating natural law and revealing himself as a tyrant (Bodin, 1606 [1576], p. 544).⁹⁵ Therefore, nations for Bodin were cultural entities but also more of a natural condition on par with weather or topography. They were variables that rulers would have to consider, not constitutive of the rulers' authority or ontological status as rulers. Of course, rulers needed subjects, but just as a father could adopt or disown a child while preserving his status in the divinely ordained system of natural law, so were the characteristics of a ruler's subjects incidental to his sovereignty, which depended only on God.

Although Bodin was still clearly depicting social organization in terms of a counterfeit of the kingdom of heaven, the unity and singularity of Christendom was deteriorating. Out of Aquinas's and Marsilius's respective depictions of the empire as a fairly universal kingdom led to heaven by the church with more or less capacity to command in God's name came Vitoria's image of a Christendom with strong and expansive external borders and relatively inconsequential internal borders under the emperor. In contrast to a unified Christendom or a Christendom of many parts, Bodin presented many Christendoms, each under a king and each king a lieutenant of God. Although the fragmentation of Europe's system of religious signification was certainly an impetus of this process, one must also consider the inherent logic of replication. Given that the kingdom of heaven was subject to replication, which was

⁹⁵ In Book V, Bodin describes national character and culture as being an effect of providence and location with the idea that people from regions with drastic climactic or geographical differences, such as the Germans and the Arabs or the French and the Huns, were most likely to enter into conflict. Accordingly, providence saw to it that there would generally be a nation separating incompatible extremes. The contrast to Kautilya or Machiavelli is striking, both of whom expected more trouble with the neighbours than with the neighbours' neighbours.

indeed the whole point, it was a foregone development that the replication could be emulated, and the emulation could be replicated, etc. Every counterfeit is a copy by definition, and once copying is possible, it will soon become pervasive.

The deterioration of Christendom's symbolic status was reflected in the fragmentation of the world it assumed. The unity of the church and of the church and the empire is difficult to reconcile with multiple popes and successfully marauding pagans threatening its existence. The appearance of subjects foreign to doctrinal accounts of Creation and heretics disputing not just which pope is true but whether any pope can be are further fractures in the signified that destabilize the signifier. Since France's religious wars of the sixteenth century foreshadowed those Europe would experience on a grand scale in the seventeenth, it is no surprise that Bodin depicted Christendom as a set of parallel kingdoms that foreshadowed the modular and reproducible states and nations of the productions system.

Pre-modern territorial sea: creating nothing out of something

The counterfeit, and the trajectory it follows from emulating the kingdom of heaven as a unitary entity towards ever more fractionalized interpretations of it, is also reflected in the pre-modern representations of the territorial sea. The progressive subjection of the sea to territorial enclosure reflects how Christendom devolved into an international society. Territoriality belongs to the signified of states, and the increasing application of territoriality to the sea corresponds to the waxing production system of reproducible states and the waning of a counterfeit system as a replication of the unique kingdom of heaven.

As in the example of the rise of nationality and sovereignty, earlier representations of maritime space as an object under humanity's power originally drew heavily on Roman legal concepts. In the beginning of the period to be reconstructed, the sea was considered *res communis*, the common property of all, which conformed with its manifest resistance to enclosure as well as its status as an element of God's anthropocentric creation. This was accompanied by limited areas of limited authority for fairly definite purposes. As sovereignty shifted downward from God to man and became progressively more divisible among men, however, the sea became subject to

ever more invasive human authority and ever deeper notions of how to divide it. By the early seventeenth century, the *res communis* image of the sea as the common property of humanity was yielding to a contrasting *res nullius* image of the sea as a divisible object to be apportioned according to the power and ambition of its claimants. I will trace this trajectory in three steps, starting with the adoption and adaptation of Roman representations of the sea, followed by the Treaty of Tordesillas and finally the contending depictions of Grotius and Selden in response to the capture of the Santa Catarina.

All roads lead to Rome ... even when they're straits

Just as reconstructing the counterfeit of political theology had to begin with Augustine in the western Roman empire, the reconstruction of the sea as an object of international law has to begin with Justinian in the east. Justinian's anthology of rules contained a text by Marcianus, which was the first depiction of the sea itself as subject to human law (Pardo, 1984).⁹⁶ Justinian included a taxonomy of objects that divided them into the categories of private, public, common and undefined. *Res privatae* were private goods owned by individuals, like clothing and livestock; *res publicae*, the public goods, contained objects that could be owned but by an entire population of subjects simultaneously, like roads, navy ships and imperial slaves; *res communis* could not be owned by anyone individually or collectively even in principle, like the sea or the sky; and *res nullius*, the indefinite status, contained objects that had no owner but could be appropriated, which would include things like wild beasts or rain water (Fenn, 1925). When it came to the sea, Marcianus, and Justinian by extension, famously classified it as *res communis omnium naturali jure*, or common to all by dint of natural law (Pardo, 1984). As for what counted as the sea, its limit began at the high water mark of the flood tide (Swarztrauber, 1972), and by including virtually all the land that the sea will wet at some point on any given day,

⁹⁶ There are Rhodian rules that substantially predate these and are occasionally referenced as the genesis of all maritime law (Fenn, 1925). However, those rules treated the status and duties of seamen and maritime merchants, not the sea itself. Although this is of interest to conventionally oriented international law scholars who are interested in tracing the roots of all things maritime, they are of less interest for the current purpose of analyzing how signs were applied to the sea and how that contributed to the development of international society.

this was effectively the most expansive definition of possession and geographical extent it was possible to give.⁹⁷

The Roman depiction of the sea as an indivisible object informed the pre-modern image of the sea as an inalienable element of creation that admitted no internal partition, which in turn reinforces the notion of sovereignty being a property of God that mundane power could only, and should, approximate. The distinction between *potestas* and *auctoritas* described above in relation to profane rule had an analogue in relation to power over the sea. Here, *dominium* referred to the power to treat the sea as property and dispose of it at will, and *imperium* signified powers of administration and protection, which would include, for example, pursuing and punishing pirates. The exercise of *dominium* over coastal waters was exceptional and restricted. For example, the English crown treated the 'King's Chambers' as royal property, but these were only a collection of bays and inlets without extending into open water (Oudendijk, 1970). It was much more common for princes of coastal regions could exercise *imperium* over adjacent seas for reasons echoing strongly the counterfeit logic. As Oudendijk (1970) put it, '...no prince can command what is forbidden by God or forbid what is God's command. ... This implies that the sovereign of a sea area is not entitled to diminish the common use thereof and that all his statutes are personal, not real' (29). Venice administered the Adriatic in this mode from 1269, securing traffic and exacting fees, without claiming the water as a territorial extension of the Venetian polity or the private property of the doge (Swarztrauber, 1972).

Beyond the exceptional and limited cases of maritime *imperium*, the pre-modern depiction of the sea was such that, 'to Dante's monarch, the ocean alone is the limit of jurisdiction' (Bartelson, 1995, p. 105) for theological reasons. Theology provided the semantics and canon law the syntax for translocal legal orders until at least the late

⁹⁷ The cheap, but parsimonious, realist explanation for this definition would be that Rome was the supreme naval power in the Mediterranean, and extending navigational freedom would naturally benefit whomever had the greatest ability to project power over the sea. Beyond the fact that this would uncritically accept much of what I am trying to analyze, it also fails to answer two lingering questions. First, if the determinant of right and propriety is simply the superiority of force, why spend the time and effort articulating a rule that can be challenged? Why not just conquer away? Second, this interpretation might fit the period when Marcianus wrote in the second century, when Rome was ascendant, but it is a puzzling depiction for the period four centuries later, when Justinian included the text in his civil code and the western empire was on the mat at a count of eight.

sixteenth century (Benton & Straumann, 2010), and the representation of the sea as an object subject to authoritative regulation - or not - was no exception. Indeed, contemporaries who ventured to describe how terrestrial authority applied to maritime objects avoided applying that authority to the water itself. In the fourteenth century Sassoferrato deemed islands to be subject to the adjacent prince's authority to a distance of 100 miles from the coast, and Ubaldis, his pupil, preserved the application to islands only but reduced the range to 60 miles (Swarztrauber, 1972). Even the exceptions reinforce the sea's status as an indivisible object of God's creation, immune to sovereignty. For example, the *Romanus Pontifex* bull of 1455 does indeed seem to grant King Alfonso of Portugal *dominium* over open water. However, it applies to open water formerly possessed by 'Saracens and pagans' from Ceuta to Guinea, and it was granted to Alfonso, because 'from his early youth with his utmost might to cause the most glorious name of the said Creator to be published, extolled, and revered throughout the whole world, even in the most remote and undiscovered places, and also to bring into the bosom of his faith the perfidious enemies of him and of the life-giving Cross by which we have been redeemed, namely the Saracens and all other infidels whatsoever'. In other words, it was granted to a fervent warrior of Christendom so that he would continue his campaign and expand its domain. And of course, the bull itself was issued by the pope on his authority as the vicar of Christ (Benton & Straumann, 2010). Although the bull does seem to violate the sea's place in the counterfeit of the kingdom of heaven, it hardly weakens the counterfeit. On the contrary, the bull was issued so as to improve the counterfeit.

Like a knife through water: splitting the seas by decree

This strength of the sea's *res communis* status and its role in the counterfeit would be weakened soon after, however, and ironically with another papal intervention. This intervention was the Treaty of Tordesillas, and the pope's intercession was the strongest tie to the use value of salvation. Otherwise, the substance of the treaty was already introducing the reproducibility of the production system.

The European voyages of exploration that led to Tordesillas are well known. Henry the Navigator had travelled the west coast of Africa in the early to mid-fifteenth century, and Bartolomeu Dias became the first Christian to pass beyond the southern

tip of Africa in 1488, and he also sailed on behalf of the Portuguese crown. Most famously, Isabella of Castille and her husband, Ferdinand II of Aragon, financed Columbus's voyage to the New World, which he reached in 1492. Pope Alexander VI was apparently pleased with the outcome of Columbus's voyage, but the Portuguese initially considered it an encroachment on their rights as described in the *Romanus Pontifex* and began to assemble an armada to claim the New World for themselves (Swarztrauber, 1972). Alarmed at the prospect of a naval war with fellow Christians, Isabella and Ferdinand informed the pope and asked him to intercede. He quickly released a bull in May 1493 granting the entire New World aside from what John II of Portugal had already claimed or that was already occupied by other Christians, which was followed a day later by a second bull that granted the Spanish crown all lands more than 100 leagues west of Cape Verde and without the protections for Portugal. The penalty for violating the terms of the second bull was, appropriately, excommunication. John protested, which was the occasion for the treaty.

The Treaty of Tordesillas is remarkable because it was incompatible with the image of the sea as an indivisible entity as created by God, but the pope himself was the source of this violation. The particular terms of the treaty were such that the dividing line was moved outward to 370 leagues west of Cape Verde, which was to be measured by Portuguese surveyors on Spanish ships and vice versa. While that would seem to apply only to the land, leaving the indivisibility of the sea intact, the fourth item of the treaty describes the rules pertaining to the safe passage of Portuguese and Spanish ships on the opposing side of the line. The provision that any islands or other objects found on the wrong side of the line would remain the possession of the other party would seem, first, to violate the use value of salvation in that, if saving pagans were the objective, *any* zealous and pious Christian should be competent to do so. Further, the clause stating that 'They shall take their courses direct to the desired region and for any purpose desired therein, and shall not leave their course, unless compelled to do so by contrary weather' clearly pertains to the sea and its navigability, not to the land. The representation of the sea as a mass subject to subdivision and possession also implies that it contains parts that can be reproduced and allocated. It was moving further from the status of *res communis*, a thing indivisible in principle because it is common to all, and closer to *res nullius*,

belonging to no one merely until claimed. The remaining, but weak, connection to a notion of Christendom was the fact that the production and allocation of sea stocks was a matter for the pope, and he was only willing to allocate them to Christians.

The bifurcation of the unclaimed globe that the Treaty of Tordesillas inaugurated did in fact serve to prevent a war between the two expanding Iberian kingdoms, but only between them and only for a time. The French crown, despite being occupied with war on heretics in Europe, was also interested in colonizing the New World and continued to contend that the sea was *res communis*. French corsairs harassed Spanish ships and settlements, and the French even established a colony in Florida, which the pope had allocated to the Spanish. The Spanish compromised with the Treaty of Crepy-en-Lannois in 1544, granting the French passage into the West Indies for trade but not colonization (Swarztrauber, 1972; Zemanek, 1999). By that time, Pope Clement VII had excommunicated Henry VIII, who was inclined to expand into the New World and could no longer be threatened with excommunication for ignoring the pope's cartography. The English fleet also defeated the Spanish armada in 1588, making it more difficult for the latter to make any claims to exclusivity on their side of the Tordesillas line. Consequently, English ships also began to frequent the New World, harass the other Europeans and establish settlements of their own. The process of recreating the kingdom of heaven on earth was rapidly yielding to a field of kingdoms emulating each other.

The Dutch, who were under the Spanish crown until William of Orange, a Calvinist, revolted against the Roman Catholic monarchy of Philip II in 1566 and, naturally, against the ecclesiastical supremacy of Rome. Consequently, they also began to defy the injunctions of Tordesillas and to probe beyond Europe. This led to the counterfeit order's last gasp in maritime law, when the depiction of the sea as a divine *res communis* came into direct conflict with its ascendant depiction as *res nullius*.

Maritime Oedipus: intergenerational legal strife

Ironically, the most comprehensive and one of the last depictions of the sea as an object immune to sovereignty on theological grounds came from the Dutch in protest over Rome's misrepresentation of the sea's status, when the former captured a

Portuguese ship that Tordesillas would have made immune to seizure. The Portuguese were having other troubles with their hemisphere for two reasons. First, because of an inability to keep accurate time, it was very difficult to measure longitude accurately, so though Tordesillas bisected the globe at the 45th meridian in the west, nobody could locate the reciprocal 135th meridian in the east. Second, Magellan had helped conquer the prized Moluccas in 1512 as a Portuguese agent, but he sailed to reclaim them for Charles I of Spain (later Charles V, Holy Roman Emperor) six years later, and everyone was fairly sure that the 135th meridian was in roughly that neighbourhood. Therefore, the sea that the Portuguese had been promised in perpetuity was still coming to be treated as *res nullius* in fact. And in 1603, three ships of the Dutch East India Company captured the Santa Catarina, a Portuguese ship in transit from Macau to Malacca, and the admiralty court declared it to be a valid prize. The Portuguese protested, and the Company recruited Hugo Grotius, a talented young lawyer who was barely out of his teens when the Santa Catarina was captured, to assess the status of the sea.

Writing on the eve of Europe's great religious wars, when the image of human society as a vehicle for salvation was collapsing, Grotius represented the sea as *res communis* in very strong terms from several angles. Citing Vitoria and the imperatives of God's natural law repeatedly, Grotius begins by arguing that God created the earth with its fruits unequally distributed, and everyone has the right to trade for what they lack, which would require the Portuguese to grant others the right to trade across the seas if they had title in the first place, which they did not (Grotius, 1916 [1608]). As to their title, Grotius argues the Portuguese would only have title were the lands they were claiming *res nullius*, which they were not because of the natives already present, and the pope's gift was void because he, as the vicar of Christ, could not give what Christ had renounced in Luke 12:14 and John 18:36.⁹⁸ In positive terms, God created things that could be possessed exclusively if they could be entirely consumed or used only by one party at a time and things that resisted possession, and 'the sea is common to all, because it is so limitless that it cannot

⁹⁸ Luke 12:14: 'And he said unto him, Man, who made me a judge or a divider over you?'; John 18:36: 'Jesus answered, My kingdom is not of this world: if my kingdom were of this world, then would my servants fight, that I should not be delivered to the Jews: but now is my kingdom not from hence.'

become a possession of any one, and because it is adapted for the use of all' (Grotius, 1916 [1608], p. 28). Taking an even greater extent of common dominion than Marcianus, he even held that the coast was *res communis* except for sections that were actually enclosed and occupied. Grotius also reaffirms the use value of the sea in emphasizing use as the proper criterion of ownership over mere possession: 'all that which has been so constituted by nature that although serving some one person it still suffices for the common use of all other persons, is today and ought in perpetuity to remain in the same condition as when it was first created by nature' (Grotius, 1916 [1608], p. 27). Although Grotius would represent the sea later in life in terms that made it susceptible to the replicable partitions of the production system, his initial depiction of the sea were deeply consonant with the signifier of Christendom and the *res communis* status that implied for the sea.

Grotius's statement in favour of depicting the sea as an indivisible part of creation and immune to legal partitioning, implying a common, indivisible aspect to the organization of humanity, also marked the historical end of the counterfeit order. That the critical juncture between the counterfeit and production systems had come is best exemplified by the fact that thirty years' after the publication of Grotius's *Mare Liberum*, John Selden published a text that presented the diametrically opposed view, *Mare Clausum*. Selden, like Grotius, also published in the wake of ships being seized, but in this case, it was English ships capturing Dutch vessels off the coast of Greenland. The Dutch, now in the position of the Portuguese before them, complained, and a conference ensued at which Grotius represented the Dutch case and for which the Duke of Buckingham requested Selden prepare the English argument (Fletcher, 1933). The text, though written in 1618, was not published until 1635, after Grotius had published a revised, production-friendly version of his own doctrine.

Whereas the central principle of *Mare Liberum* was that the sea was indivisible and subject to common use as God created, which no one, not even the pope, was in a position to contradict, Selden's central principle was that the sea is divisible and belongs to whomever can hold it, just like land. Further, the English crown, as the sovereign over England as a distinct sub-entity of humanity, is responsible for

protecting maritime sovereignty as a matter of patrimony: 'by the Comon Law of the Land, our Kings were Proprietarie Lords of our Seas; ... the Seas of England were under the Legiance of our Kings, and they sovereign Conservators of the peace as well upon the Sea as the Land' (Selden, 1652, p. c). Whereas Grotius avoided even mentioning *imperium*, Selden speaks explicitly of dominion, such that coastal princes are not only stewards of the sea, but dispose of it just as private individuals might dispose of private property. He writes, for example, that 'by most approved Law and Custom, som Seas have passed into the Dominion and patrimonie, both of princes and private persons' (Selden, 1652, p. 170). Against Regenerus Sixtinus, whom Selden praised as the finest of Rome's lawyers, he argues that the sea belongs to the regalia, the king's possessions under his dominion. Though Selden praises Grotius's erudition and respect for natural law, he clearly argues that the law of man is different and supreme. The kingdom of heaven now had to stop at the shores of the kingdoms of man.

Not only did Selden contradict Grotius's principle, he also rejected God as its source. Instead, he suggested that law can be separated from theology, and lawyers, not clergymen like Vitoria, as its proper interpreters. Tacitly acknowledging the symbolic status of Justinian's *Corpus Iuris Civilis*, Selden argues that lawyers of his age had rejected even it as a valid source of law. Custom, as catalogued and codified by jurists, was a much better indicator of rules than Roman thought or theology. Human law was also capable of enclosing a seemingly boundless mass such as the sea that would seem to resist physical enclosure: 'Yea, and it is mainteined by very eminent Professors of the Civil Law, that an Action at Law may bee allowed for regulating the Bounds in the Borders of the Sea. Therefore they sufficiently acknoledg the Custom of measuring and setting Bounds, even in the Sea' (Selden, 1652, p. 170). Despite his frequent references to custom, Selden seems to have been aware of the revolutionary character of his proposal. Attacking directly Grotius's argument that the sea was indivisible by nature and had customarily not been divided and claimed, Selden states that 'the Custom beeing changed, if there were any in the antient Law that might hinder a private Dominion of the Sea, the reason of Communitie must bee changed also' (Selden, 1652, p. 176). The sea was no longer a natural fact or part of

the heritage of Genesis; it was now becoming subject to the rules of man and his will to reign supreme over nature and God.⁹⁹

The representation of the sea as an object shifted from *res communis*, an element of creation open to all and that precludes exclusion by its nature, to *res nullius*, which is a different type of object entirely that allows for particular possession, delimitation and reproduction of these attributes. The singular kingdom of heaven to be emulated in a singular instance yielded to several kingdoms, as reflected in the appropriation of sovereignty from God and then its projection onto tracts of water, which in no meaningful or real sense could be possessed. The *imperium* authority that the former representation implied allowed for it to be used more communally, excluding primarily those who persisted beyond the pale of Christendom, equally yielded to *dominium*, a form of authority that begins and ends with human the representation of subjects as differentially powerful and submitting the sea to the same logic of command that subjects applied to each other. Through the counterfeit period, the sea went from unpossessable to a divisible prize to be claimed that did not even require possession.

Trade: the progressive abstraction of subjects trading objects

The representations of trade as an activity subject to rules differ from those of maritime space in that it treats multiple, mobile objects and the interactions of subjects around them, whereas the sea is proverbially permanent and serves as a medium for the locomotion of other things. However, the two share a constitutive liminal position relative to the societies representing them. The sea is a limit to human habitation, and as a European phenomenon Christendom often ended at the

⁹⁹ It should be noted that, whereas I argue Grotius was faithful to the vestigial counterfeit order and Selden was the vanguard of the coming order, Fletcher (1933) presents the opposite interpretation that 'If the *Mare Liberum* was the inspired harbinger of the future, the *Mare Clausum* was the faithful mirror of the actual and the exhaustive record of the past' (10-11). The main reason for this difference is that, whereas Fletcher saw the sea in his day as a free space still open to navigation under national flags and for international trade but at risk of closure, it is exactly the representation of the world in general and the sea in particular as subject to territorial and demographic subdivision according to arcane rules that describe a world foreign to itself that I seek to problematize and whose development I am trying to reconstruct. It should also be noted, however, that the depiction of the sea as an open and common space in Selden's wake is a very debatable point. Though not going so far as to consider it an implication of the semiotic structure of international society, Logue (1982) presents the compromises of UNCLOS III as unprincipled and legalistic hypocrisy, and he calls the document 'Selden's revenge'.

water's edge. Similarly, trade as a constructed and represented activity always signifies what things are possessed and who in the interaction are the possessing subjects. That is, any transaction of commercial exchange simultaneously signifies whether the vendor is personal or collective, some notion of title based on some authoritative principle, whether anyone has the authority to interrupt the transaction to exact a fee, and so on. Thus, the rules that apply to trade also speak volumes about what counts as society, where the limits of society are to be found, whence they came and how they are maintained, by whom, and so on. Trade is a peripheral activity, and that periphery always signifies a centre and vice versa. Tariffs, to which the MFN relates here, are thresholds to entry, and where there is a threshold, there is a frontier, and where there is a frontier, there are two sides. Therefore, tariffs can reveal much about how difference emerges and parts are constituted from wholes (Nolde, 1932), just as Christendom fractured into international society.

Despite a more limited range of representations to analyse in this case, three points are clear with reference to the MFN and the counterfeit order of Christendom. First, the rules and normative practices relating to trade were further removed from the logic of emulating the kingdom of heaven than was the case with the rules depicting Christendom's self-image and other or the amenability of the sea to authority. But it was not wholly divorced from this logic either. Second, there are other aspects of use value that applied in this case and this period very strongly. Third, even with limited data it is worthwhile to study tariffs in general and the MFN in particular as a radically variable rule applied to them in this period because tariffs were so important to the maintenance of the feudal and imperial structure of social organization. Taxes were as difficult to collect as they were to assess (Tilly, 1985). Indeed, the emperor was often in a state of extortionate tourism, travelling to collect his vassals' dues because they would not be otherwise forthcoming. Because trade will follow the path of least locomotive resistance up to a point, tariffs were relatively easy to collect at nodal points along these paths, such as crossroads, river crossings and mouths, trade fairs, passes and borders (Ruggie, 1993). This inherent tendency was reinforced with rules, such as Charlemagne's *Capitulare missorum in Theodonis* of 805, determining merchants' routes and markets (Steiger, 2010). Tariffs were accordingly an important and relatively reliable source of imperial and generally

feudal revenue. To the extent that the kingdoms of Earth were vehicles on the road toward the kingdom of Heaven, tariffs were the price of maintenance.

Although uses of the MFN rarely made reference to any explicitly Christian logic, it is still informative about the representational nature of Christendom for two reasons. First, like all regulatory rules it simultaneously constitutes, as argued in chapter two. In signifying who had the authority to exact tariffs, which political signs applied to which subjects and so on, it constructed and reinforced the hierarchical grammar of pre-modern political life. The relations it constituted were also telling, starting with more concrete individuals and contractual relations but becoming increasingly abstract and future-oriented. Second, because it refers to a principle of variability rather than to a specific, unchanging tariff rate, it is flexible and variation is built in. There is further variability in how the principle is formulated and in what contexts, so that these features of any given articulation of the MFN yield far more information about the context of the surrounding system than a definite, static rate could provide. Indeed, its application in pre-modernity reveals how there was a singular order of unique, irreplaceable parts.

The emergence of the MFN

The MFN had appeared already in the High Middle Ages, but it was in competition with other clauses with inherent principles of variability. The mutuality clause, for example, provided for reciprocal treatment among contracting parties, and the national treatment clause set the rights of visitors in a fixed relation to the locals' rights, which were themselves variable. These could and would also be combined, as in the case of a treaty between the English and Burgundian crowns in 1417 that granted *national treatment* of each other's ships *mutually*, but the anchoring rights were defined with a *renvoi* to the rights granted to third parties in other treaties (Borchardt, 1906).

The early formulations of the MFN were not always so complicated, and it was often simply included as a trade clause attached to a peace treaty. Such clauses were often used to secure the position of the victor or reward allies by cementing beneficial terms of trade, and as a result they were often appended as secret clauses to the

public content of the treaty (Borchardt, 1906). This describes the initial appearances of the clause, with the first use of the MFN in 1055, when Henri III granted the citizens of Mantoue the same privileges available to any other town (Nolde, 1932). Guy de Luisagnan, who was King of Jerusalem at the time, granted citizens of Marseilles trading rights equivalent to the citizens of Montpellier in 1190, and Emperor Fredrick II granted the Marseillaises the same rights as the those enjoyed by the Genoese and Pisans in 1226 (Hornbeck, 1909a; Vesel, 2007). That the principle appeared in peace treaties, which come at the end of a period of violence and uncertainty, reinforces the notion that it served to reinstate the proper form of a preordained order. Instability was a distortion of the teleology, and peace treaties were a means of restoring it.

The commercial treaty as a dedicated articulation of trade regulations did not appear until the fourteenth century. Although one might suspect that trade treaties might be far less specific about the particularity of relational positions in the system than peace treaties, which are obviously unique and concluded after unique events. But on the contrary, the appearance of trade treaties as modes of establishing general relations while according to a more or less standard form is relatively recent. Initially, commercial treaties and trade law also served to reinforce the uniqueness of participants in the counterfeit order. Indeed, early rules of trade did not apply to commodities at all; rather, they applied to the merchants as persons (Borchardt, 1906; Nussbaum, 1950). The common practice was for merchants to be initially granted only the status offered by the local law of hospitality (*droit d'hospitalité/Gastrecht*), and having to acquire further privileges, from as the basic right to sell all the way to specific or general re-export privileges, one by one (Koulischer, 1931). Not until the eighteenth century did commercial treaties appear that separated merchants as natural and legal persons, ships as extensions of national personality and cargoes. As a result, each private merchant would stand in a particular legal relation to the sovereign with whom he had contracted with an effectively unique designation of rights and privileges. It was not until the seventeenth century that the Hansa accepted an MFN, equating their own status with that of others (Koulischer, 1931).

How the MFN related diverse parts to an imperial whole

Of course, not all merchants traded on their own account, and many acted under the aegis of a larger syndicate. In a mode reminiscent of the practice in some religions of having a caste system to prevent holy individuals from having to interact with profane or corrupted material, these trade syndicates managed much of the trade on Christendom's geographical boundaries. The Hansa were by far the most important syndicate in northern Europe, and Italian syndicates based on families and local ties among them in the south. Especially the Hansa were utterly distant from anything resembling Christian charity. They were granted as much as double the time allowed to other merchants to evacuate their property in time of war, had to pay less than a tenth of the rate Elizabeth I charged others on textiles, and they were even absolved of some of the charges in England that English subjects had to pay (Koulistcher, 1931). Further, whereas the English in Flanders were only granted 60 days to evacuate in wartime and the Genoese 90 days before their goods would be seized, the Hansa could wait 120 days and even then have little fear of harassment. Even when the Hanseatic League was losing their oligopoly on northern European trade and the English offered national treatment on condition of reciprocity, the League refused on the grounds that equal terms were contrary to its principles. The links to Christendom as a meaningful purpose are slightly more apparent in the case of the southern trading cities because they largely had the crusades to thank for their status. However, they enjoyed privileges similar to the Hansa in many respects, such as being relieved of anti-piracy levies and export monopolies for certain products.

Another indicator of the concreteness of earlier MFN treaties is to be found in their scope, both temporally and in the range of third parties to which they referred. With regards to temporal scope, there are two ways that the MFN can be projected in time: a *pro praeterito* clause includes all the target party's previously existing terms of trade and a *pro futuro* clause includes all the target party's terms of trade to be negotiated in the future. The *pro futuro* formulation relates to abstract, potential connections and can be made to fit any number of diffuse relations, and as such, it implies a speculative representation of trade. The *pro praeterito* formulation is perhaps speculative in terms of the returns it promises, but it is less ontologically speculative

in that it refers to existing parties and the relations they have already established in the order. *Pro praeterito* was the rule until 1667, when the English and Spanish crowns concluded a treaty granting each other any privileges, guarantees, freedoms or immunities available third states in the past or future (Borchardt, 1906; Koulischer, 1931).

In addition to the temporal restriction on scope, the remit of any instance of the clause was also commonly restricted by means of limiting the range of third parties to which it applied. This restriction also illustrates how the MFN served to reinforce a concrete, ordained order. In the initial treaties of Henri III and Guy de Luisignan, there was a direct equivalence established between the treaty partner and a named third polity. Later it became more common to list a specific set of third parties to whom the equivalence would apply. For example, in the case of the 1417 treaty between English crown and the Duke of Bourgogne, which is often regarded as the first commercial treaty, the Duke granted the English rights equivalent to those already enjoyed by the French, the Dutch, Zeelanders and the Scots (Nolde, 1932). Only in the late seventeenth century did a phrase such as 'or any other nation' follow the list of named third parties, opening and generalizing the clause's scope of application (Hornbeck, 1909a).¹⁰⁰ The earlier practice has also attracted criticism from modern scholars of trade for not being general enough and consequently being incapable of generating a pervasive system of self-adjusting trade relations (R. C. Snyder, 1948). Not only is this true, it highlights precisely that the relations established by earlier forms of the MFN, and consequently the objects and signs they related to each other, were not infinitely reproducible. On the contrary, a relation could be reproduced, but deliberately and explicitly, which also yielded a new identifiable relation rather than a corruption of identification and identifiability.

The MFN cementing concrete objects

A final characteristic feature of a counterfeit system reflected in tariffs is to be found in how they define a relationship among relatively concrete things rather than a cascade of semiotic abstraction. Initially, of course, the significations of merchant or

¹⁰⁰ Schwarzenberger (1945b) dates the end of using lists of named third countries to the fifteenth century, although without mentioning specific treaties that would allow this claim to be confirmed.

duke as relatively permanent statuses are abstract identities rather than descriptions of effective activity, but they are much more concrete than a category of import or export and the permanent status of abstractions like borders and remote possession, which they imply.

Before moving on to describe the critical juncture in which the counterfeit deteriorated and the traces of the production system became apparent, it should also be mentioned that the MFN was not entirely dissociated from Christendom either. How Christian kingdoms constituted themselves with their local other, the Ottoman Empire, by regulating trade reveals this clearly. The *roi très chrétien*, the Most Christian King of France, caused a scandal in 1535 when he concluded a treaty containing an MFN clause with the High Porte because he was allying with a heathen ruler against the Spanish and Austrian Habsburgs, the dynasty of the western Christian empire (Borchardt, 1906). Even in 1675 in a later capitulation treaty, the English crown demanded of the Porte the same rights accorded to the French, the Venetians or any other *Christian* nations (Koulischer, 1931). While this does not indicate that the kingdom of heaven was necessarily the motivating logic in articulating legal principles of trade, it does indicate that affiliation with Christianity was an important sign that served to structure conceptual relations among political collectivities in early and pre-modern international society.

As modernity dawned, the person of the ruler and his relation to his subjects as well as the divine yielded to a system in which states became reproducible quantities with a set of commodified attributes. This shift is as apparent in trade law as in the shift from sovereignty to statehood or the projection of territoriality onto the sea. Whereas the pre-modern construal of trade was primarily in terms of a relation between the ruler and the legal person of the merchant, it shifted in modernity to a reproduction and reinforcement of states as loci of military power and bureaucratic truth. In Nolde's (1932) words 'It is evident that, to use these means of economic attack and defence, each of two States is obliged to organize its frontier so as to control commercial exchange. It transforms its political border into a tariff border; it makes ... a line to organize a special administrative service ... a service subject to a set of

technical rules' (8-9).¹⁰¹ As the state consists of rules, which relate representations to each other, the increasing abstraction of trade relations necessitated a reconceptualization of the state and the rules that constitute it.

As with the other two cases, the modernization of international society was a phenomenon of the seventeenth century, though it was foreshadowed in the sixteenth and there were yet echoes in the eighteenth. Empirically, this shift is apparent in the progressive generalization of trade relations, the shift from *pro praeterito* to *pro futuro* privileges and the substitution of particular and directed relations with general and reciprocal relations.

By 'generalization of trade relations', I mean that the named third countries in MFN clauses were gradually replaced with ever longer lists, and these lists then yielded to references to any third state whatsoever (UNCTAD, 1999). For example, in a 1612 treaty between the United Provinces and the Porte, the Porte granted the same privileges to the Dutch that only the French and British already enjoyed. By 1642, Portugal granted British subjects the same immunities available to the subjects of any other of Portugal's allies. In 1669, an Anglo-Dutch treaty included reference to 'whatsoever foreign nations', which, like the group of 'any other Christian nation' mentioned above, was an innovation (Hornbeck, 1909a). By the end of the century, the first references to the 'most-favoured nation' appeared. This progression shows that the particularity and propinquity of relations that the pre-modern treaties established deteriorated and became remote and reproducible. Instead of being designations of status by virtue of their uniqueness, in the later form they would only be able to identify in aggregate, if at all. As the relations generalized, the idea of a particular relation became increasingly inappropriate, but a particular set of relations might still be found.

Just as the *pro praeterito* formulation mentioned above was a sign of a relationship's concreteness, the shift to *pro futuro* formulations was a second signal of the commodification of relations. The shift to *pro futuro* is indicative of the commodification typical of production systems because it automatically equates a newly established relation with those that already exist and assimilates it into the

¹⁰¹ Author's translation.

system. Thus, the *pro futuro* formulation homogenizes what was unique, which simultaneously makes it reproducible. Although Borchardt (1906) asserted that the *pro futuro* formulation did not become the standard means of understanding the MFN until the early eighteenth century, it appeared already in 1654, when the England-Portugal treaty of 1642 was updated. A treaty between the English and Spanish on the margins of the war of Devolution also included a very general clause reciprocally granting all privileges, guarantees, freedoms and immunities with all clauses and advantageous circumstances that were already accorded to the King of France, the United Provinces, the Hanseatic cities or *any other kingdom or state* and into the future (Koulischer, 1931). Such a formulation clearly reconceives of trading relations as indefinitely reproducible quantities among a set of ruling instances and subjects rather than as a particular relation situated in time between a ruler and a merchant.

The third indication in the history of the MFN that indicated the transition of international society into a system of exchange value is the shift from unilateral to reciprocal formulations. In pre-modern appearances of the MFN, it was typically formulated in unilateral terms, and these could signify a relation of favour and gratitude or one of retribution and subservience. The former is apparent in the treaties of Henry III, Frederick II and Guy de Lusignan mentioned above, in which they were granting favours in order to reinforce a relationship of affinity or to reward fidelity to the singular, imperial, Christian order. Unilateral formulations could also mark a hierarchical bipartite relation. This was the case with many of the treaties involving the Hansa, who, as mentioned above, rejected reciprocity even in principle. Similarly, the French treaties with the Porte of the late sixteenth century were not reciprocal and would include such provisions as forbidding the latter from dealing with any peoples who had ever been under French rule, such as the English, the Venetians and the Genoese, without French intermediation (Koulischer, 1931). In fact, this practice of using a unilaterally formulated MFN to denote a relation of super- and subordination reappeared in the 18th and 19th centuries when the modern European states used them to subjugate the empires and monarchies of East Asia, which were in many ways representationally and narratively pre-modern (Nussbaum, 1950). However, the particularity implied by subservience or gratitude,

which is bound to a specific narrative and arranges the political signs in a certain configuration, gradually gave way to reciprocal formulations that followed a more instrumental, reproducible logic. Reciprocity implies that the parties to the treaty are equal in some respect and that trade is a matter of achieving surplus rather than rewarding or rendering tribute. Although isolated instances of reciprocity appeared as early as the fifteenth century, it only became a conventional form of the MFN clause in the late seventeenth century (Hilf & Geiß, 2011). Later it became a commonplace of late modern thinking about international trade, its proper functioning and the role of the MFN in securing it (Schwarzenberger, 1945a; Ustor, 1968).

What the history of the MFN lacks in direct references to emulating the divine kingdom, it compensates with the breadth of its variations and telling transitions, all of which indicate a shift from more particular relations between more concrete entities to ever more generic relations among abstractions. These transitions include the shift from pertaining to individuals merchants but later to ships and cargoes, from being used as limited rewards and punishments to a general class of trading relations, from applying between particular polities or rulers listed explicitly or delimited by Christian affiliation to replicating the relations of any other contracting polity, and the shift from replicating existing and enumerable terms from the past to projecting a relation indefinitely onto the abstract expectations about the future. Thus, though God is less dominant as a master signifier in this case and period, the MFN nonetheless serves to indicate how the representations that constituted pre-modern international society had the form of a counterfeit semiotic system.

The collapse of the counterfeit

A counterfeit order is characterized by the emulation of a unique original, which provides for the identifiability of the signs it contains, stabilizes their meaning and allows for their capacity to obligate. Pre-modern international society was just such an order with the kingdom of heaven as the original to be reproduced and God as its guarantor, also guaranteeing the integrity of its copies. That this was the case is apparent in the rules treating the members of Christendom and their configuration

relative to each other, the representation of the sea as a boundless and unboundable feature of creation and trade as the establishment of particular relations among concrete entities. God and Christendom were frequently invoked in these representations in explicit terms and provided the attendant activities with origins and teleologies to ground them normatively. But even when these anchors were not explicit, they reverberated in the form and content of explicit rules.

As the unity and coherence of Roman Catholicism deteriorated, so did the system of social and political representation that rested on it. The empire remained able to maintain its integrity as long as the anchor sign did as well and it could claim to provide the exclusive normative coordinates. However, as the role of the church in the Christian cosmology came into question and Christendom was continually confronted with radical others, it proliferated signs to deal with increasing internal and external alterity. Nothing more was required to impel the counterfeit toward production. The empire and other sovereigns of Christian Europe devised rules of territoriality and trade that emphasized internal divisions and a logic of organization and representation that depended on abstractions other than God and the kingdom of heaven. These included incipient sovereignty not derived from God at all, an insubstantial network of future trade relations, nationality pertaining to traded goods and contrived lines of possession far removed from possessable land among others. Once signs' representational statuses no longer depended on use value, they were amenable to the commodification and reproduction typical of production systems.

Chapter 5: The production of international society and the commodification of states

The spectacle corresponds to the historical moment at which the commodity completes its colonization of social life. It is not just that the relationship to commodities is now plain to see -- commodities are now all that there is to see; the world we see is the world of the commodity. (Debord, 1994, p. 42)

Despite the increasing symbolic efficiency of nationality as an idea, there was a unity to international society until roughly the mid-seventeenth century by virtue of the common sign under which it was organized that was generally commonly interpreted and whose meaning was fairly stable. This lent meaning to the forms and activities that constituted the society. However, as the divine unity of the Catholic faith began to fragment and the empire along with it, the integrity of the system and the use value ascribed to it eroded as well. As the theory of deteriorating meaning suggests, though, a corruption of meaning does not necessarily imply the end of signification. On the contrary, dissipating meaning leads to a proliferation of signification in order to simulate meaningful representation, which induces a vicious cycle.

This chapter describes the next phase in this process of the simulation of international society, in which the use value of the counterfeit system yielded to the commodity value of the production system. In more prosaic terms, the unifying sign of Christendom and the meaning behind it yielded to a multiplicity of states. But this is a momentous change. The notion of freestanding polities, teleologically independent of each other in the sense of none relying on any others to reach a purposeful goal but bound together by a common universalizing logic is radically different from a single, universal, purposeful order. Instead of a social ark to reach salvation, international society became a collection of hollow, reproducible containers that were only bound together by the fact that, as signs and territorial entities, they mutually delimited each other.

As the three cases will show, the substance and indicator of international society remained international law in the new type of system. Instead of a quality derived

from God to preserve and foster the integrity and salvation of *the* congregation, sovereignty became a divisible quantity attributed to the state. Rather than be weakened by the shift of sovereignty from rulers to social groups, this reinforced the seeming necessity of the sign of the state. Although Vattel's description of this system also did much to conjure it, he provides a useful entry into its new structure, in which states were vessels for nations, and both were motivated by a solipsistic notion of interest. Because natural law, based on reasonable individuals whose dignity was a function of the transcendence of their souls, could not be reconciled with the new structure of international society, it yielded to a notion of positive law that could accommodate the normalization of interest and could equate fact with normative necessity. As I will describe, states as reproducible containers of invented nations pursuing interest as a matter of right led fairly directly to a standard of civilization, in which only replication was tolerable and tolerated.

The new order was also well represented in the evolution of the rules constituting territorial seas. The production order was the age of the cannon-shot rule, according to which cannon range served as the basis for the legal construct of a territorial sea. While this seems like a logical way of setting the territorial sea's breadth in a system based on positive law and motivated by interest, the case aptly reveals the hollowness of this order because the cannons were doubly fictional. First, they did not even need to be present to exert their force, and second, the range attributed to the absent cannons was pure fantasy and had nothing to do with the capabilities of any cannons in existence throughout almost all of this period. Thus, the cannon-shot rule reveals both how strongly notions of interest and force came to define the structure of the system as well as how hollow and cheap these notions were, serving to ensure reproducibility and commodification without substance.

The commodification of signification was also apparent in terms of the most-favoured nation principle. The first indication of reproducibility is the shift to mutuality in MFN treaties. This created a system of automatically cascading trade relations with insiders and outsiders, implying that the positive law sustaining the system consisted in fact of rules that sustained and reproduced it, not just commands issued in the service of interest. The second indication is the peculiar shifts in the

interpretation of the MFN during the nineteenth century. For a period of several decades, the functional interpretation of the clause was effectively reversed without explicit discussion or referendum, implying, in parallel with the cannon-shot fictions, that the mere existence of the rules sustaining the system was more important than their form or content. These rules were losing their capacity to symbolize or represent anything but their own facticity. They were not ends, but means for international society to reproduce itself, and the mere fact of this reproduction superseded any purpose.

Modern sovereignty: commodifying fictions

When the religious signified of pre-modern international society became so fragmented that it could no longer bear the representation of a unitary congregation and pre-modern political organization as its vehicle, that organization also fragmented. This implied that salvation as the singular purpose and teleology of the empire and its affiliates also collapsed, and because an international society of several and varied parts could not bear the attribution of a single purpose expressed in positive terms, all that was left was to express its purpose in the negative terms of averting an imagined Hobbesian calamity of universal war. International society no longer existed to reach salvation but merely to avoid the supposed horrors of anarchy (Simons, 2003). Order was defined in terms of preventing disorder, not as an approximation of the best order.

This system had many components. First, there is the image of states as self-contained and mutually delimiting entities, like signs. Because Vattel best described this image and was an enormously important reference in the jurisprudence of modern international society, I will begin by considering his depiction of international society and states in it. Second, these self-contained states were containers, and what they contained were masses of people. In order to reconcile the divisions these containers imposed between people, they required natural, historical, self-contained and sustaining collectivities with differentiating characteristics, for which the nation as signifier served well. So, the next step will be to describe the emergence of the nation as a representation with moral value. However, both the

nation and the state can persist as freestanding signifiers, so they both required a concept that would allow them to serve as each other's signifieds. This concept was interest, and it is the third element to be explained. Interest, however, is a relative concept in that it admits an indefinite number of particular formulations, and this relativity utterly undermines the natural law foundations of the pre-modern system's rules. Therefore, a new conception of law was required to accommodate nation-states and the society they jointly formed as organizations existing by virtue of rules, but only in terms of *law* rather than of *right*. So the fourth element to be explained in this account of the rise of the modern international society based on nation-states is very modern doctrine positive law.

Modernity's intents

Vattel's obituary for the empire is an apt indicator for the character of modern international society because of its comprehensiveness but most especially because of its general resonance in thought and representation of international society. Cavallar (2008) considers him the father of modern international jurisprudence, and several current scholars accord him the status of discursive originator of the modern nation-states system, especially the doctrine of sovereign equality (Duara, 2003a; Toyoda, 2009). Attributing such importance to Vattel is not just a result of historical hindsight; indeed, his *Droit des gens; ou, Principes de la loi naturelle appliqués à la conduite et aux affaires des nations et des souverains* was recognized even upon publication as expressing the standard image of international society in the wake of political-religious empire (Philpott, 2008).

Although Vattel claims that his law of nations is merely the extrapolation of the law of nature, his reading of natural law diverged dramatically from his Aristotelian predecessors. Instead of depicting society as nested hierarchies under divinely ordained leadership that served as a vehicle for universal salvation, for Vattel each of a multiplicity of societies was a moral person unto itself. To accommodate the diversity of moral teleologies among societies, Vattel also required principles to organize the formal relations of the states that were to represent them accordingly. These principles were separateness and equality (Vattel, 1758). As with Hobbes, who had declared the counterfeit order dead towards the end of the wars of religion, he

considered this to be a logical extension of the plight of individuals in the state of nature (Krasner, 1999; Simons, 2003; Stirk, 2011; Wight, 1977).

Although it is immediately apparent that Vattel had abandoned the Augustinian representation of natural law in the sense of fallible subjects using their reason to achieve redemption in a single congregation, he also uses the term 'natural law/law of nature'. But for Vattel the nation's duties in natural law are self-referential, and their reflexivity applies even to the duties ostensibly towards others: 'If the rights of a Nation emerge from its Obligations, it is principally those of which it is itself the object ... even the duties towards others, depend greatly on its duties towards itself, which are its rule and measure' (Vattel, 1758, p. 22).¹⁰² This principle is what he calls 'living in conformity with nature'. The preliminaries of Vattel's treatise even include a chapter on the purpose of the 'goal' of the 'great Society established by Nature among all Nations', which seems like an unmistakable way of introducing a teleological purpose. However, the first general law of this society is for each nation to assist others in perfecting their conditions, and the specific means to do so are for each state to focus on its own well-being and protection. Thus, the God that was at least the implicit object of Christendom's rules and organization is gone, or Vattel has at least replaced him with a more relativist, laissez-faire Creator than His predecessor, the attentive and judging moral universalist of the counterfeit order. It is also clear that such relativism fosters the production of a multiplicity of states by freeing them from an overarching moral logic or project. The single arbiter of good and historical progress fragments such that each becomes judge in his own case and author of his own history.

Because Vattel replaced the *civitas maxima* and the universal moral trajectory with a society of societies, each with its own attendant morality and trajectory, the question of membership becomes decisive. Indeed, if membership were either infinitely divisible or indivisible, then a cosmopolitan and maximally inclusive society of subjects would still be possible. Although Vattel considers cultural homogeneity to be the common starting point for thinking about nations, perhaps the most frequent consideration relates to differences in religion between sovereign ruler and ruled

¹⁰² Author's translation.

subjects. To inform his judgments about such cases, his reading of Constantine's conversion to Christianity is instructive. Vattel emphasizes both that the conversion was a progressive step in history and that history probably would have seen less blood and horror had Constantine immediately claimed clerical primacy over the church, but also that Constantine was right not to abuse his pagan subjects and his pagan subjects were also right to continue to obey (Vattel, 1758, pp. 127-136). With regards to the role of Christianity in relations between states, he described Christian moral principles as a potential criterion for recognition to be applied to aspiring states, without expecting existing 'Christian' states to behave according to such principles in their dealings with others (Philpott, 2008).¹⁰³

In short, Vattel was not terribly concerned with ecclesiastical principles because these were mostly matters internal to the states, whose interrelations were of greater interest to him, and Christianity here served mostly as a placeholder for a certain form of occidental organizational practice. He provided a doctrine of separate and equal states, derived from an apocryphal state of nature, that served as the organizational frame onto which further aspects of the modern, production mode of international society were projected. The billiard ball state did not, however, emerge in a vacuum. Its historical rise coincided with the rise of nations as coherent cultural and political entities that became the stuff Vattel's states were supposed to contain, even though the ideas developed fairly independently of each other. Because the question at hand relates to the conflation of the nation and the state, I must now consider the rise of the nation that Vattel ignored, but that was becoming increasingly noticeable during his lifetime. Whether meaningful or not, the sign needs to be related to its ostensible signified.

In the counterfeit order, nations existed from an external perspective in the sense that there were, of course, different languages and customs, but there was little identification with them as historical or exclusive cultural entities. Pre-modern subjects tended to be more interested in taxonomies of meaning, including Jesus and

¹⁰³ This mode of maintaining a superficial deference to Christianity while hollowing out its moral and eschatological content is incidentally reflected in contemporary developments in cartography. Whereas many maps prior to this era depicted Christian lands with Eden or Jerusalem at the centre, they started to change such that all known territory would be depicted at once and the centre was the *political* centre of the modern world, which is to say Europe (Anderson, 1983).

Isaac, for example, in the same category of 'chosen sons' rather than as historical figures existing at remote points on a temporal plane (Anderson, 1983). This changed dramatically but gradually in the modern age, when history acquired new significance as a social process, an intellectual pursuit and an increasingly standardized profession. This was apparent in the rise of the museum as an institution and of standard historical narratives for the purpose of centralized promulgation. Of course, composing a historical narrative is a matter of selection, of including certain elements and excluding others, and the criterion for inclusion was more often the extent to which the narrative depicted an ancient, eternal society rather than assessments of brute, documentary facticity. For example, the French nation would be projected back to the Merovingian dynasty, if not earlier, despite the fact that a French subject of the eighteenth century and a subject of Clovis in the sixth century would have very little to say to each other and very few mutually intelligible means to say it with.

Historicizing the nation also required a different notion of time. Pre-modern time was a matter of cycles, like seasons, sunrises and sunsets, tides and generations, bookended by the absolutes of birth and death, Creation and Armageddon. Modern time became more linear and segmented, which coincided with the linear representation of history and its periodization. Temporal discipline was exercised through fixed work weeks and workdays, standardized clocks and calendars, all of which quickly diffused or were imposed well beyond the location of their origin. Idiosyncratic practices of measuring time, like the notorious French revolutionary calendar, were objects of experimentation but quickly vanished or, rather, were replaced with the international standard. Anderson (1983) even includes the emergence and spread of serialized novels and periodical publications in the process of time's international standardization. The notion of time was shifting away from the coordinates of creation and salvation and towards the new fetishes of historical indigeneity and linear progress. The grammar of evolution was replacing the poetry of creation, and the image of states as reproducible containers with typical attributes was being reflected in these other cultural and politically relevant forms of communication.

In order to achieve symbolic efficiency, these narrative claims of historical origin also required a national language in which to be communicated and that would also help to identify and delimit the members of the group being created (Anderson, 1983; Ruggie, 1993). As with linear, periodic time, the promotion and use of national languages also became a matter of discipline with moral and aesthetic value being attached to particular localized or contrived dialects, such as 'the King's' or Oxford English, *Hochdeutsch*, or Central Thai, which standardized reference dictionaries also supported. The logic of Vattelian sovereignty, which admits neither gap nor overlap in claims to legal supremacy, also spilled over into the realm of language, with many languages being marginalized and atrophying. The languages most likely to suffer this fate were those at the margins of a burgeoning state's territory, such as Basque, Cornish, Breton, Sorbian, Frisian or Kurdish, or at the margins of the ascendant historical narrative, such as the *langue d'oc*, Scottish and Irish Gaelic, Corsican or Yiddish.

Of course, global linguistic diversity was suffering terrible violence in the colonies as well, much of which had begun much earlier. However, this reinforces the idea that the sign of the national state was emanating from Europe but not under the auspices of a central, deliberate, Europhile agency. In fact, the lack of national consciousness would often be taken even outside Europe as a sign of backwardness, ignorance, and historical inferiority (Gong, 1984). The national state's ravenous appropriation of other cultural forms also decimated its contenders in Europe as well despite the fact that many had flourished in pre-modernity.¹⁰⁴

The efficacy of a nation's symbols to motivate behaviour and serve as anchors for identification increased dramatically with the great popular revolutions in America and France. These ostensibly represented the replacement of power being ordained from above and transmitted through a dynastic lineage to power being derived from below (Philpott, 2008; Reus-Smit, 2011; Wight, 1977). This interpretation, however,

¹⁰⁴ The history of linguistic colonization is much more complex and interesting than I can cover here, and there were also cases of exported European languages hiving off from a more standardized metropolitan dialect and becoming marginalized before then becoming ascendant national dialects in their own right. Cases abound from Afrikaans to Quebecois/Acadian. The momentum of international society's proliferation would seem to outweigh any particular relationship of super- and subordination.

obscures the extent to which the ascription of nationality was already a fact, implying that the national state signifier established in both cases was only being attached to a pre-existing and fairly stable signified without being an impulse 'from below' (Bartelson, 1995). The *grande nation* that ostensibly arose from the revolution had already been ascribed to a certain territorial and demographic space that Henri Navarre had secured in the French wars of religion. In this case, the nation was delineated such that it could include some other linguistically and culturally bounded societies without war or invasion, like the Bretons or the *langue d'oc*, who later sought to escape the signifier of France in 1851 and 1871, but not others, like the Walloons (Duara, 2003a; Seton-Watson, 1977). Similarly, the American Revolution was against a particular European state-based empire, which limited its territorial and demographic expanse from including the territory and people in the new world under the French empire at the time of revolution.¹⁰⁵ Nonetheless, these revolutions made the reproduction of further national states that much easier (Grosvogui, 2009; Stirk, 2011). As Anderson (1983) put it, '...by the second decade of the nineteenth century, if not earlier, a "model" of "the" independent national state was available for pirating. ... but precisely because it was by then a known model, it imposed certain "standards" from which too-marked deviations were impermissible' (81).

Although the appropriation of cultural identity into the legal structures of international society was not the product of a central agency, national agents certainly did pursue policies that furthered this appropriation independently of each other. Dynastic regimes, whose hereditary and transplantable claims to rule seemed incompatible with the idea of a political unit containing a cultural unity, were under considerable pressure to integrate themselves into the new grammar. This resulted in two different kinds of policies. The first were 'official nationalisms', in which the dynastic governments of the *ancien régime* would attempt to discern which growing national construction was likely to dominate in their claimed territory and to co-opt

¹⁰⁵ The directedness of the American revolution towards the British empire had ambivalent consequences for the latter. While losing the American colonies was a blow, and its role as a model for further national action against the empire, it also helped bind some peoples to the empire. For example, the Irish initially supported England in the revolutionary war, before revolting in 1798. The upshot of the Irish revolt, however, was their integration in the Westminster parliament in 1801 (Seton-Watson, 1977).

it (Seton-Watson, 1977). In practice, this entailed adapting dynastic symbols and practices, such as names, apparel, crests, religious rituals and narratives of origin, to conform to symbols that had already achieved prominence in the predominant national narrative. The second was the erection of new, modern organizational forms, like standing mass armies, general staffs, and professional bureaucracies staffed by technocratic officials (Anderson, 1983). These served both to establish a hierarchical structure within and around the legal language of etatisation that would accommodate a (dynastic) leader at the top as well as to give the national state the sheen of a functional, military machine. A monarch who was no longer intelligible as God's chosen shepherd was still intelligible as a commander-in-chief responsible for safeguarding a collectivity whose past he claimed to share and whose organizational expression was formally under his command.

The symbolic and military resources that were formally identical but nonetheless reproduced also served to make mutual recognition the criterion for membership in international society rather than scriptural interpretation. Indeed, the flags, anthems and constitutions that were rapidly becoming the standard equipment of statehood followed fairly regimented forms to make them more familiar to others and amenable to others' recognition (Duara, 2003a). Similarly, the form of war, the ceremonies of its performance, and the organizational structures to prosecute it, including the military institutions as well as the financial and demographic innovations required for their viability, were also undergoing standardization. Here, too, regularization of the activity provided criteria for the recognition of its participants, such that war became something *states* did in certain typical situations and with certain typical means. This was the shift from the justness of war in the form of *jus ad bellum* to laws of war in the form of *jus in bello*. And there is no reason to see coincidence in the fact that the recognition of other states as potential opponents in war also strengthened the symbolic efficiency of the symbolic and bureaucratic institutions in any given state (Tilly, 1985). Thus, the commodification of symbols and internal institutions across international society paradoxically made the signifiers more similar to each other but also easier to identify as units.

By the end of the 18th century, the process of reconstituting the fragments of Christendom into a self-perpetuating international society of national states was well underway, but the functional national machines that had replaced the true and unitary congregation still needed a universalisable teleology to give them and the system they composed symbolic efficiency. Flags, museums, timeless languages and protective dynasties are fine as recognizable and reproducible signifiers, but they do not necessarily inspire zeal or tolerance of hardship. God was dying rapidly, so the political and legal symbols still required a vision to motivate behaviour and justify sacrifice. This vacuum was filled by the concept of interest.

Whereas the notion of salvation as a final cause of society induced conflict because of the potential for disagreement about what that entailed and how to reach it, interest was a systemic adaptation of the production system that integrated conflict (Bartelson, 1995; Wight, 1977). Each state could be cast as a unit unto itself with idiosyncratic goals, acquiring agent status in the narrative, and discord among states in general was a *natural* corollary of this variety by virtue of the concept of interest.¹⁰⁶ The rules of international society were expected to produce conflict and contradictions, but they would do so under a single, intelligible, systemic logic. There would be multiplication of bureaucracies, armies, colonization efforts and other trappings of modern statehood (Meyer, Boli, Thomas, & Ramirez, 1997), these could all be aggressively directed at each other, but within an overarching structure of relatability. This conformed to other contemporary ideas about decentralized order such that interest became seen as somewhat of a moral invisible hand operating among states. It was to some extent a version of the Hegelian world spirit that allowed both conflictual relations to be the vehicle of progress and integration into a bureaucratic system of law (Simons, 2003).

Interest signified the conflation of integrity with expediency (Holland, 2011). As such, it still accommodated a notion of law as right while also opening the door for a doctrine of positive law to supplant natural law. Natural law is difficult to reconcile

¹⁰⁶ Indeed, Weber saw the nation as inducing feelings of prestige among its subscribers and as the vehicle of their providential mission (M. Weber, 1922, p. 629). This reading would reinforce the argument here that the production order was an extension of the counterfeit order, consisting of several fragmented and reproducible parts rather than a more or less self-contained whole.

with a system of clear cultural demarcations that allow for different visions of the promised future. Under natural law, there is one truth derived from universal standards of reason and that singularity is not reproducible. Positive law, by contrast, relies on the power to compel and enforce, and there can be many such powers acting according to the situational necessity of interest rather than the macro-historical necessity of redemption and salvation. Thus, interest and positive law were necessary for the unique signs of the counterfeit order to become reproducible and functionally similar units possessed of commodity value in the production order.

Although it might seem as if the fusion of positive law and interest, with its lack of a central teleological idea and ethical canon to inform behaviour, might have also spelled the end of international society by diluting the normativity of the constituent rules, the opposite is the case. Indeed, the particularity of pre-modern natural law made it much more difficult to commodify and export. By contrast, a grammar of many parts under a single set of rules to relate them to each other provides a lower barrier to entry for those who did not share the Augustinian vision of a universal church. Thus, *jus inter gentes* replaced *jus gentium* (Ruggie, 1993). Indeed, the doctrine of positivism was also interpreted flexibly enough that it did not obstruct the project of commodification. For example, as sovereignty became decreasingly a question of strict internal supremacy within a territory and increasingly gained an external element, recognition became an increasingly important criterion of statehood. To accommodate the role of consent in a strict positivist doctrine, new states would have to obtain recognition from the representatives of existing ones, because the advent of the former entailed new realities and obligations for the latter. However, the positivist doctrine was relaxed in such cases such that existing states' recognition was not an explicit requirement for the advent of new states, nor was the new states' recognition of standing international law at the time of their creation required for their induction into the legal order. On the contrary, both were simply assumed (Crawford, 1978). Thus, the logic of proliferation prevailed over strict positivism, which allowed commodification to proceed unhindered.

The multiplicity of nationalities that were being instantiated through the proliferation of reproduced symbols and structures provided the substance of the

signifieds in a distributed international society, but positive law provided a new fiction with which to delineate the signifiers from each other in a system that could accommodate that multiplicity (Buckel & Fischer-Lescano, 2009; Kelley & Kaplan, 2009). Positive law was a systemic and casuistically flexible grammar that allowed for the reproduction of sovereignties while preserving a society of rules along with notions of propriety and dereliction.

Modernity's extent

Positive law provided not only for a grammar to structure modern international society, it was also provided teleologies for the various states that resulted. The catch was that these teleologies were often in opposition. On the one hand, many Europeans, especially those interested in performatively eulogizing the deceased God of Christendom, saw in the modern international society based on commodified sovereignty a moral value that obliged them to tutor others in its virtues and practices. This fell under the title of 'the standard of civilization', which added a connotation of righteousness to the otherwise amoral system of positive law. On the other hand, many non-Europeans, whether Christian or not, saw in the international society based on positive law a means of emancipating themselves from an early modern colonial order that depicted them as being incapable of self-government in principle. However, the only way to escape subjugation under international society's alignment of the positive law regime and the standard of civilization was to assume the forms of that society. In order to avoid subjugation in a society of national states, those still outside it had to embrace subsumption in the system of commodified national statehood, which is a distinction of dubious difference.

The ability of the production system to appropriate those subjects who remained outside of it is apparent in the contrast between two instances towards the end of the modern period. The first is the erection of Japan as a national state and its integration into international society. Prior to 1853, when American warships rendered its territorial insularity obsolete, Japanese society was fairly isolated with little connection to the society of modern national states and its legal infrastructure. Indeed, isolation was an official policy with a designation of *sakoku*, or 'closed country'. However, the American intrusion quickly led to the realization that Japan

had become an object of international society with a territorial and cultural outside that was going to be penetrated in one of two ways. Either the islands and people would have to assimilate the designation of modern international society, assume its forms and play the game to win on the society's terms or be assimilated under the sign of another national state as had so many other extra-European territories and peoples before. After little more than a decade of anguish about whether to continue on its previous path of a self-contained counterfeit before succumbing heroically, but authentically, to one or another intercontinental empire or to let the modern system determine its new form and structure, Japanese society quickly constituted itself as a model national state in the modern fashion (Duara, 2003b).

This assimilation covered a range of signifiers. On the level of cultural representations, the germinating Japanese state appropriated the tokens of civilized national status in the 1860s and 70s, such as modern military technology and organizational structure, bureaucratic ministerial organization, the familiar *hinomaru* flag and the *kimigayo* anthem. How the infant state of Japan constituted itself in international society's normative logic of signification is more interesting. First, the Japanese bureaucracy quickly set about sending young elites abroad to be trained in international law and importing foreign legal experts as advisors (Becker Lorca, 2010). Second, the organization and expertise was rapidly put to use in erecting another symbol of a civilized, modern national state: a colonial empire of subjugated peoples. Two decades after the Commodore Perry's arrival, Japan invaded Taiwan, and two decades after that, it waged a war of colonial expansion against China, which was under siege by a number of Japan's European competitors, and a mere decade after that, Japan defeated the Russian empire in an utterly modern war. Once Japan was constituted as a modern national state with all the symbolizing attributes of international society, it could not but have continued to pursue the teleological demands of national interest given by that form (Suzuki, 2005). Like Chekhov's gun, the attributes that signified Japan as a member of international society exerted a narrative force through interest and positive law that conditioned how the rest of the world was to be represented and acted upon.

The Arab Revolt provides a striking contrast. For much of the modern period, the Ottoman Empire was held to be the macro-political expression of the Muslim *umma* in a separate Islamic counterfeit, a view known as 'Ottomanism', just as the Holy Roman Empire had served for Christendom. As modernity progressed and Christendom fragmented into various national states following functionally identical projects, the Ottoman empire was no longer seen as a counterpart to Christendom but was integrated into the modern system as just another multinational empire with a core national state (Toynbee, 1955). And as the nickname, 'the sick man of Europe' indicates, Ottoman efforts to pursue its interests in the interest-based system structured with positive law were widely discounted. As the First World War erupted, displaying the irresistible impetus of national statehood and the pursuit of interest, the major ethnic group subject to Ottoman rule, the Arabs, opted to use the logic of the system against Ottomanism, which they perceived as imposed. However, six years after decisively revolting with the help of the powerful British international empire, the Arabs who revolted against Ottomanism were merely consumed by various European state-based empires. Whereas Meiji Japan succeeded in becoming recognized as a sign intelligible to the production system, Arabia failed utterly.¹⁰⁷

Many features separate the two attempts to assimilate into international society, and many are similar. The Japanese program was largely the product of autonomous impetus, but the Arab revolt was prodded and sponsored by third parties, though there was considerable desire to develop an independent presence in international society at the elite level. Both received military training and technology from foreign organizations, providing them with more or less familiarity with war as a central institution of modern international society and more or less capacity to perform it adequately. None of these features provides the answer as to why one attempt succeeded and the other failed.

The two differences that make the Japanese success and the Arab failure intelligible are to be found at the level of the national signifieds and the ability to deploy the rules of international law in order to constitute recognizable state signifiers. Whereas

¹⁰⁷ Although the focus here is on the Arab peoples living under Ottoman rule, Ottoman officials had taken notice of Japanese tactics and success in assimilating themselves into modern international society and were interested in emulating what they could (Worringer, 2004).

there was a strong image of a self-contained nation in Meiji Japan, which had provided the occasion for the preceding policy of isolation in the first place, there was no comparable image of a pan-Arab identity. Despite traces of effort to constitute some national essence that would counter Ottomanism as early as 1868, the so-called 'Arab awakening' never achieved popular currency (Kramer, 1993). Rather, it remained the project of a small number of individuals who were uncommonly aware of the rules of international society (Ajami, 1978-1979). This elite is also the key to the second factor, namely, that this small group educated in the idiom of modern international society never grew into a bureaucratic apparatus capable of reproducing that society's legal forms. Although the Hejaz was recognized as independent from the Ottoman Empire already in 1916, the formally ruling Hashemite dynasty proved unable to constitute a state that would be recognized as such. Instead, the territory that had been recognized as independent was quickly divided into separate parts, including protectorates apportioned among the war's principal victors, and enfeebled nascent states, like the Kingdom of Hejaz and the Amirate of Trans-Jordan, and even these suffered further appropriation into colonial empires because of their inability to administrate their legal affairs up to the standard of civilization (Selak, 1957). In contrast to Meiji Japan's triumph of integration into international society, the Arab revolt lacked a national signified with which to fill a state and lacked the legal fluency to fashion a signifier that conformed to the rules of that society.

These two examples demonstrate the relentless logic of commodification at work in modernity. The fusion of national signification with international legal signifiers made integration into the production system inevitable. The only question was whether to adopt modern international society's forms and pursue a narrowly defined and exclusive interest with forceful and legal means or to be absorbed into the expanding signified of a pre-existing external signifier. But that one would be inside the territorial and legal administration of one national state and outside the others was simply an inevitable consequence of the production system. As soon as national statehood became reproducible, it did not stop reproducing until it had subsumed the globe.

*To be absolutely modern means to be the ally of one's gravediggers*¹⁰⁸

Just as Christendom's teleological impetus, the path to salvation, also provided the fuel for the wars of religion, which was the conflict that constituted the counterfeit system's critical juncture, the production system's own grammar led to the violent conflict in the form of the thirty years' crisis, which was the critical juncture that ended it. The pursuit of interest under a minimalist structure of rules, which was all that the strongly positivist legal sensibility would allow, led to the international Hobbesian calamity that the Vattelian order was supposed to avoid. The order of self-aggrandizing national states reached a limit at which they began to constrain each other, and the plurality of separate teleologies became increasingly incompatible with each other, such that the means of pursuing one particular interest would entail annexing what had already been integrated into others' signified.

Perhaps counter-intuitively, the disintegration of international society's modern structure was heavily informed by ideas about rules, despite the fact that it featured war on a startling scale. Two changes in how rules shaped international society demonstrate the disintegration of modernity and foreshadow the postmodern most effectively: the rule that nations should be autonomous components of international society, known as self-determination, and the idea that international rules themselves are a sign of progress, implying both that the progressive teleology was again operating above the level of individual state signs and that this was to be achieved by a formalizing international society. It should be apparent that these two motions were not necessarily parallel and consequently yielded some absurd inconsistencies. These will be treated more thoroughly in the following chapter, but their germination was already visible towards the end of the production system.

Although Vattel's system already seemed to imply that the societies pursuing their own fruition would be somehow naturally constituted, which conformed well to the tendency of projecting national histories backwards as far as they could plausibly go, the idea of national self-determination and the nation-state as its institutional articulation are historically more recent. Indeed, 'nation-state' as a term first

¹⁰⁸ I borrow this phrase from Kundera's *Immortality*.

appeared in English in reports on Wilson at Versailles, and it did not appear in dictionaries until the second half of the 20th century (Kelley & Kaplan, 2009). Nonetheless, making states effectively and officially the institutional expressions of nations with the requisite legal context sounds like the achievement of an early modern dream of balancing particular diversity with general unity to which Vattel and Grotius would have both subscribed. The idea would be standardized civilization rather than a standard of civilization.

The realization of the early modern vision by means of national self-determination, however, contained theoretical paradoxes and led to practical absurdities. On the theoretical side, basing statehood on the corporate personality of the nation was subject to a problem of recursion in that those who had already achieved recognition in the representational language of international society had the power to ratify claims to statehood by newly conscious nations. As Jennings (1956) succinctly put the problem, 'On the surface it seemed reasonable: let the people decide. It was in fact ridiculous because the people cannot decide until somebody decides who are the people' (56). The principle was, in effect, a recapitulation of the Westphalian *cujus regio ejus religio* principle, by which dynastic rulers could locally determine the faith their subjects were to abide by to avoid religious war, in that now those benefiting from international society were in a position to determine subjects' political affiliations, again in the interest of peace. And because the system apportioning the signified to signifiers that had already been invented had persisted longer in Europe, peoples were generally more accustomed to the state signs under which they had been distributed. Outside Europe, though, states continued to be erected first according to the preferences of the established members in Europe, leaving the invention of the national signifieds to be accomplished later (Wight, 1977). Nationality was modular (Anderson, 1983), and the system that determined the form of the modules was international society.¹⁰⁹

¹⁰⁹ Not all national groups were integrated into states from above. There were also rare cases of plebiscites to determine which state signifier would be applied to a nation, and here eschatological ideology could play an even greater role than the fetish for statehood. For example, the Saarland, which in terms of national symbols and political history could have plausibly been subsumed under either Germany or France or perhaps remained as an independent, diminutive buffer state, like Luxembourg. Instead, the people voted to join the 3rd Reich by referendum (Wight, 1977).

The disparity between those empowered to admit new state signs into the system and those clamouring for admission is also the source of the practical absurdities. The problem was that national self-determination amplified the fetish for statehood, which led to further subjugation of people outside Europe by non-Europeans who had achieved integration into international society earlier (what would now be called 'south-south domination').¹¹⁰ Reus-Smit (2011) has argued that, as peoples demanded recognition of their human rights, international society expanded to include a larger number of states. While the number of states did increase and the total included several outside of Europe who had not yet been accorded national self-determination, many others faced the domination of those who had already obtained some level of identification as nationalized subjects with a state signifier. The list of peoples who were so subjugated is long, ranging from the numerous aboriginal groups subsumed under the modern administration and symbolic expressions of a new state to the annexation of peoples that had already been generally ruling themselves as more or less coherent societies, like Korea and Tibet, but were annexed by an emerging national state using an expansive denotation of 'nation' and 'state'.

The fetish for statehood that led to the subjugation of one people by another outside Europe also, oddly, led to greater appetite for law. For example, the Japanese elite sought broader and deeper legalization, clearer expression of the signifiers, precisely because they realized that not even defeating established Europeans in war was sufficient to achieve equal status in fact (Becker Lorca, 2010). Although the motivation for greater legalization was superficially emancipatory, it also allowed for the invention of new forms of subjugation, like the mandate system of the League of Nations. Thus, the normative force that adhered to newly invented national distinctions, according to which peoples could be ranked by imputed value, and that legalization was meant to overcome was actually amplified by it (Anghie, 2005).

¹¹⁰ Volk (2010) has argued that Hannah Arendt noticed similar trends in how the dominant national collectivities in the states of southern and eastern Europe erected after the First World War quickly began to dominate those within their administrative borders, just as they had been dominated before the war.

The modern territorial sea: operationalizing fictions

The features of the production system evidenced in the case of statehood and nationality, the replacement of a common teleology with disparate teleologies, the rise of interest as means to rationalize the disparity while preserving the semblance of a common order, the projection of recent innovation onto imagined conditions of a primordial past, the shift from the inspired reason of natural law to the imperative commands of positive law, and the assimilation of the outside into an insatiable totality, were also visible in the integration of the sea into international society. Just as the nation and the state signified each other, with the state represented as the active container of the nation, the nation as the representation of the state's source and purpose, and conventional rules being charged with moral force to delimit the two and fit the parts into some kind of whole, the sea was another sign defining and being defined by these other parts. National statehood was naturalized by means of a narrative projected backwards and reinforced with increasingly technical markers represented in increasingly official media, and the attendant territorial sea was based on a doctrine of possession, where possession was operationalized with entirely fictional, but expedient, contrivances whose symbolic efficiency was maintained by the discourse of law and the creative description of rules. Like interest, fictional possession allowed for the pretence of use value under a system of exchange value, which was characterized by commodification and reproducibility.

Inventing the imaginary cannon and reproducing it infinitely

As the counterfeit period was coming to a close, Selden was contradicting Grotius's doctrine of *mare liberum* with the claim that the sea was for sovereigns to claim where they could rather than a gift from God to be used in common. Nearly two decades after his original statements on the legal status of the sea, however, Grotius revised his opinion in *The Rights of War and Peace*, advocating a doctrine between his former rejection of maritime sovereignty and Selden's advocacy of its legally unlimited extent. The exact formulation was that 'the Jurisdiction or Sovereignty over a Part of the Sea is acquired ... as all other Sorts of Jurisdiction; In Regard to Persons, when a Fleet, which is a Sea-Army, is kept in any Part of the Sea: In Regard to Territory, as

when those that sail on the Coasts of a Country may be Compelled from the Land, for then it is just the same as if they were actually upon the Land' (Grotius, 2005 [1625], p. 470). Although he was careful to exclude the possibility of sovereignty being projected over the sea in its entirety, and though it clearly bases maritime sovereignty on a principle of possession, this statement became one of the most renowned and controversial in modern legal discourse because it is so ambiguous.

The ambiguity in the statement lies in what could count as compulsion from land, and the existing modes of dealing with littoral sovereignty provided little clarity. First, there was a rule in the western Mediterranean that may date back to the fourteenth century, according to which belligerent ships were to refrain from combat or prize-taking within range of the cannons of neutral coastal fortresses. The idea was to avoid drawing neutral parties into a conflict (Walker, 1945). Because cannon range extends in a radius from the cannon, and this legal formulation only considered the seaward extent of this radius, the seaward compulsion applies to a limited arc along a short segment of coastline. Second, there was a rule in Scandinavia according to which princes would accept each other's supremacy within a Scandinavian league of the coast. This rule describes a continuous band of territorial supremacy along the entire coast, but it has little to do with compulsion or even a loose notion of possession. Third, there was a clause that appeared occasionally in treaties from the mid to late seventeenth century that would invoke the range of eyesight as the distance within which certain activities, like fishing or prize-taking, were prohibited. Although this establishes a notional connection with land, it was neither a condition of possession nor compulsion, and it was extremely variable depending on weather and the elevation of the eyes. Sometimes these rules would be combined and convoluted. For example, in 1691 the Danish king forbade prize-taking within four miles of the Danish coast, which corresponds to a Scandinavian league (Oudendijk, 1970). The French protested and made a counteroffer to refrain within a distance of three miles, which corresponds roughly to the range of eyesight of an adult standing on a flat coastline and to a Mediterranean league. However, in formulating the counteroffer the French explicitly referenced cannon-range as the basis for the three-mile band as a principle known to, and accepted in, international custom. As international society was disintegrating into

several distinct parts and becoming integrated through the standardization of various rules, this disparity was incompatible with commodification.

Returning to Grotius's formulation, the case might have been more straightforward. He seems to imply that the arc doctrine was to apply with the innovation that it should be extended to a land army's cannons, which would represent a definite motion towards an understanding of law based on the sovereign commands of positive law and conform to a Vattelian model of international society. But even operationalizing the principle of military occupation with land-based cannons evoked different interpretations. Stypmann, writing in 1652 and drawing on Bodin and Bartolus, applied the principle to any cannon at land or sea up to a distance of 100 miles from the coast, arguing that a fleet can occupy the sea just as an army can occupy land (Schücking, 2010 [1897]). Whereas this reading was compatible with Grotius, it is in fact far closer to Selden. Morisot was more nuanced. Specifically, he argued in 1643 that the range of eyesight should be the baseline distance for all, with extensions for those with the military capability to occupy more (Oudendijk, 1970). Graswinckel was still more creative, directly contradicting Selden with the claim in 1652 that eyesight should serve as the baseline with extensions to a continuous band of maritime sovereignty calculated in relation to the length of the state's coastline (Liesker, 1901). While this proposal is less tied to a strong positivist notion of occupation, it presents a more refined concept of interest in that it recognizes that peoples with longer coastlines are likely to be more heavily invested in maritime activities and would pose a greater risk of conflict. While these interpretations of the law are all distinctly modern and diverge considerably from the counterfeit representation of the sea, they offer no quicker route to standardization than did the divergent practices.

A decisive move towards standardization came at the turn of the eighteenth century, but it was also a move towards the simulation of statehood. As the proposals above make clear, the rule formulations of the seventeenth century tended increasingly towards a continuous band of territorial sea rather than Grotian arcs. However, the doctrine of effective occupation was also ascendant, filling the vacuum left by lack of a divinely ordained status of the oceans and conforming to the modern rules of

positive law and interest. Bynkershoek was the first to combine these two streams in a standardized, reproducible fashion. He noted the benefits of a standard breadth to the coastal belt, but he also noted the diverse suggestions of his predecessors and the lack of a principled means to choose from among them. In considering the merits of eyesight as a standard, he was one of the first to note the problems raised by the relative positions of those looking as well as the complication raised by 'the recently invented telescope' (Bynkershoek, 1702). His solution was to set the breadth of the belt at the range of cannons, 'for that is as far as we seem to have both command and possession' (Bynkershoek, 1702, p. 15). Since he was relying on the positivist criteria of command and possession, he also predictably specified that cannon range in any particular case should depend on the coastal princes, who habitually demanded that ships salute as soon as they entered range of their cannons, which they themselves would know best.

The simulation aspect of Bynkershoek's formulation was apparent in the fact that he had replaced the former stipulation that actual cannons be present with strictly notional cannons. It was clear from the idea of the Christian God that He was omnipresent; His Kingdom was eternal and covered everything under His dominion in principle. The shift to modernity and the decoupling of political sanction from God, however, brought with it the question of how to conceive of inevitable interruptions, which would be compounded by positivism. If law depends on the commanding agency of the sovereign, then a prince asleep or indisposed would also suspend that agency. Similarly, if territorial sovereignty relied on possession, and possession was a question of occupation, then the absence of a sovereign delegate and compulsive force would suspend title. Grotius's cannons were a step away from use value in that they were a reproducible means of signifying a claim to title; Bynkershoek's *notional* cannons go even further, detaching that which had to be reproduced from any material. Cannons are reproducible signifiers, but notional cannons are infinitely reproducible. They are not bound to space or resources. A notional cannon is always ready to fire and constantly signifies without absence, a prince could rule in his sleep, and a state would persist without exertion or confirmation. It became a reality, but an increasingly simulated reality.

The ability to reproduce statehood on the basis of notional quantities was also rapidly embraced by officials claiming bands of various breadths for different jurisdictional purposes. When the Danes had tried to claim a spectrum of differential maritime jurisdictions in the late sixteenth century, their claims were broadly ignored (Heinzen, 1959). By contrast, towards the late seventeenth century and increasingly as time progressed, the claims to functional jurisdictions at different breadths proliferated throughout international society. Typical purposes included the control of prize-taking, fishing, preservation of neutrality, and the prevention of smuggling (Bower, 1925; Swarztrauber, 1970). While this practice reinforced the reproduction of bands, it also complicated the question of standardization. Notional cannons as the basis of increasingly simulated sovereignty were cheap to reproduce, but their very unreality made their import indistinct. They sufficed as a basis for a standard positivist narrative based on possession and occupation, but there was still the question of what exactly was possessed and occupied. Because the cannons were imaginary, but the breadth of the band was based on their range, the range had to be established.

Infinite in quantity, limited in range

After Bynkershoek, cannon range appeared frequently in treaties as the measure of an unbroken band of sovereign littoral water, but it was defective as a unit of measurement in that it was not universal, and it diverged from the bands already observed. Whereas bands based on eyesight can be assumed to reach at least three nautical miles, or a Mediterranean league, from the coast based on the vanishing point of a grown adult's horizon, and the bands based on the Scandinavian league measured four nautical miles, there was considerable disagreement as to what distance was designated by 'cannon range'. Jurists tended to overestimate the distance, with some suggesting it should extend up to nine miles/three leagues. By contrast, a Dutch diplomat writing in 1740 categorically rejected the possibility of any existing cannonball reaching anything like a league, and in 1758 a French authority stated that no gun of any calibre could reach more than half a league (Oudendijk, 1970).

There were various attempts to standardize cannon range by fiat or by complementary measures. For example, a 1786 treaty between the Spanish and Algerians stipulated that all ships within sight of the shore were under the protection of the littoral authorities, but also that no ships were to be captured within cannon range of any Spanish coasts (Oudendijk, 1970). Russian representatives concluded several treaties that established coastal sovereignty in 1787. The first, concluded with Sicily, set cannon range as the limit of protective neutral waters (Swarztrauber, 1970). Similar treaties followed with French and Portuguese governments as the counterparties, but a fourth with the Neapolitan government diverged in that the standard phrase *hors de la portée du canon* was replaced with *hors de la distance de la portée du canon* (Oudendijk, 1970).¹¹¹ There were similar semantic shifts in treaties translated from one language to another during the mid-eighteenth century. Following a dispute with Denmark in 1760, French authorities were somewhat more precise, but no more bound to ballistic realities, by declaring cannon range to be equal to one English league (Heinzen, 1959).¹¹² These instances reveal a shift towards considering cannon range to be a notional measure, independent of any particular artillery piece.

Just as treaties were converging on cannon range as more of a convenient geographic fiction than a matter of fact, jurists were gradually following suit. In *Droit des Gens*, Vattel was clearly convinced that cannon range properly reflected principles of occupation and interest, but his formulations of the rule are ambiguous and inconsistent. Ferdinando Galiani was less inhibited about declaring a fiat measure for the purposes of efficiency and coordination, perhaps because of his training as an economist. In 1782, he wrote that ‘we should fix, finally, and all along the coast, the distance of three miles, as that which surely is the utmost range that a shell might be projected with hitherto known gun powder’ (qtd. in Wilder, 1998). This statement is generally accepted as the first equation of notional cannon range with the standardized measure of a Mediterranean league (Münch, 1982). In the late

¹¹¹ The first phrase reads in English as ‘beyond the range of cannon’ and the second reads as ‘beyond the distance of the range of cannon’ - author’s translation.

¹¹² The English league was measured in miles about 18% shorter than the nautical miles of the Mediterranean league.

eighteenth century, cannon range had in fact reached roughly a mile, but Galiani makes clear that he considered the measure more an act of declaration than a matter of fact. Martens, writing a treatise on positive international law in 1789, repeated Galiani's logic.¹¹³

Just as the fictive cannons had detached the fetishized authority of positivism from compulsive force, declaring their range by fiat further detached the signifier of sovereignty from the need to compel. Whereas cannons might have had to exist somewhere in a given territory for their range to be relevant, a strictly declaratory range meant that no cannons need exist at all, and their range became a matter of convention. Thus, the territorial sea as part of a state's signified was entirely absorbed by the grammar of the system without bonds to a physical or ecclesiastical reality principle. Positive law could be issued by declaration, and the declarations relied on no external criteria. The exchange value of authority was gradually yielding to an evaluation based on signs alone.

I claimed above that the advent of the United States was a watershed event in that it demonstrated the modularity of statehood in that a state arose more or less fully formed, obtaining all the markers of a national state without the typical and idealized historical development. The event was no less consequential in terms of the development of the territorial sea as signifier, and it was not long in coming. A few months after declaring war on Great Britain in 1793 in the context of the revolutionary wars and capturing a British ship in Delaware Bay, the French Foreign Minister Genet demanded to know what area the American government claimed for its neutrality. Thomas Jefferson, who was the Secretary of State at the time, consulted with Edmund Randolph, the Attorney General, as to the best legal response. Randolph replied that no objections were to be expected if Jefferson claimed a belt as broad as cannon range (Wilder, 1991-1992). Jefferson was familiar with Vattel, Martens and Galiani (Heinzen, 1959), so it is no surprise that he replied in August 1793 that, even though official American policy was that the question should be settled at a general conference in the future, the American government would

¹¹³ In early editions of Martens's *Precis du droit des gens modernes de l'Europe* the distance is printed as three leagues rather than three miles, which would equate to one league, but this is broadly regarded as a typographical error and was corrected in later editions (Walker, 1945).

provisionally claim 3 miles, mentioning this as both the range of a cannonball and the shortest distance claimed by any civilized nation. By March 1794, the American Congress had legislated a three-mile territorial sea for neutrality purposes.

The American example demonstrates two things. First, the forms and grammar of international society had become standard enough that, once a state representation had achieved some degree of recognition in that society, a simple declaration was sufficient.¹¹⁴ Cannons as a signifier of effective occupation had become so deeply integrated into the representations of international law that they only needed to be mentioned. Instead of invoking notional cannons as an illocution of sovereignty, the mere word and a reference to a league were enough for a potent perlocution to the effect of 'we are a state'. Second, statehood had become commodified to such a degree that a narrative of primordial nationhood was not always required. As long as the nation's status as belonging to 'civilization' was not in doubt, statehood could be declared in individual instances as an explicit novelty.

Soon after Jefferson's declaration, the principle became a fairly invariable feature of the rules of international society. In 1793 Azuni reaffirmed the three mile breadth and was the first to coin the term 'territorial sea' / *la mer territoriale* (Azuni, 1793, p. 240). Less than a decade later in 1800, Great Britain recognized three miles for neutrality purposes for the first time (Heinzen, 1959). In 1805, the United States tried to claim five miles, which Great Britain rejected, and three miles was the measure in a British-American treaty of 1806 (Oudendijk, 1970). By 1900, all states that claimed a territorial sea at all set it at three miles with Spain as the only exception (Heinzen, 1959).

At the turn of the twentieth century, the three-mile territorial sea was well-established and well-known as 'the cannon-shot rule'. However, new technologies soon overtook the cannons that were supposed to signify the force and occupation that had ostensibly grounded the rule. As for cannons themselves, three miles was an obtainable range for a brief period between the Napoleonic wars and the advent of conical projectiles and rifled artillery in the mid-nineteenth century. By the early

¹¹⁴ This does not imply that the recognition was principled or 'legal' in a formalistic sense, merely that a claim to semiotic status was accepted, even if it signified very little in such basic terms as a fixed territory or exclusive control.

twentieth century, however, 16-inch guns could reach up to 25 miles, and coastlines had become considerably more populous (Bower, 1925). An early legal opinion prepared for the League of Nations provided an even more tenuous connection in that it expressed approval for the use of the fixed distance of the territorial sea as a model for the definition of airspace in the 1919 Air Convention (League of Nations, 1926). Thus, the three-mile territorial sea, which had its origins in Grotius's idea of projecting occupying force from the land, was by the early twentieth century also being applied to the delimitation of aerial sovereignty, despite the fact that force projection in the air is not bound to the land in any comparable relationship to that of a land-based cannon. It was merely a conventional signifier of statehood that was detached from any reality principle, and consequently it could be reproduced and reapplied at will. In other words, the proverbial command backed by a threat of positivism was relieved of the threat, leaving the command resting on a diffuse representation.

The constant and uniform command of the territorial sea had replaced the threat of a cannon shot, which was possible because the state was a constant, but notional, threat. And a notional threat was sufficient because the representation of the state as an institution of territorial domination had, by that time, become a commonplace of modernity (Brenner & Elden, 2009). Because signs of occupation and possession had been established as attributes of states' territorial expressions, they needed only to be declared rather than established. The value of commodities is conventional and reaffirmed in exchange, and with every reaffirmation of territoriality in reference to the sea and other unboundable spaces, the value of the state became at once more commodified, clearer and yet less real.

The modern MFN: manufacturing fictions

The commodification of statehood and the detachment from meaning were also apparent in the modern development of the MFN with particular reference to three aspects. The first is the role the MFN played in signifying the status of full, civilized statehood as well as subordinate, uncivilized colonial polities. Indeed, mutual recognition of MFN status became a declarative sign of inclusion in international

society, and subjection to a unilateral MFN relationship or being excluded from MFN relations with others was a marker of backwardness. Second, the principle was remarkably malleable but remained uniform in that the common interpretation of the principle changed radically in waves, but without attracting much opposition within those waves. This indicates that the existence and abstract form of the marker was more important than its substantive content. It was not a means of promoting or regulating trade as much as signifying how *international* trade was to be understood and delimiting the range of traders. The third aspect is a product of the first two, namely that the formulations of the MFN became ever more generalized and based on the assumption that a state was an already established and generic signifier whose signified could be fairly easily recognized in any particular instance rather than requiring reference to a specific, named polity. The existence of international society as a configuration of general rules and generic types could be assumed because the process of standardizing the signs had reached a sufficient level.

Early modern MFN: recognizably signifying class

Just as it was for the cannon-shot rule and the association of nationality and sovereignty, the seventeenth century was a very dynamic period for the MFN. Even into mid-century, bilateral treaties with MFN provisions were still mentioning single third states as the standard of reference. For example, a 1654 treaty between the English and Portuguese was so restricted, but it was also remarkable in that it included a *pro futuro* formulation, allowing it to adapt automatically to changes in future circumstances (Borchardt, 1906). A few decades later, the practice of naming third states singly started to yield to a new practice of listing a number of third states at once. This was also around the time that the phrase ‘most-favoured nation’ was coined as a standard phrase in treaties (Hornbeck, 1909a),¹¹⁵ implying that ‘nation’ as a signifier was likely to induce little confusion on the part of those encountering it because its referent was becoming increasingly standard and conventionalized.

¹¹⁵ Hornbeck is well acquainted with the historical development of the MFN and provides a fairly detailed account, but he does not indicate a specific treaty in which the phrase appeared. Although there is little reason to doubt his scholarship, it should be noted that Koulischer *does* provide such detail and dates the first instance quite a bit later to a 1740 treaty between the French king and the Ottoman Porte (Koulischer, 1931).

The increasingly bureaucratic organization in service of the signs of statehood and the strengthening role of interest in informing the resulting policies became apparent shortly thereafter at the beginning of the eighteenth century. Around this time treaties started to appear that were dedicated specifically and exclusively to the topic of setting trade tariffs and including recognizably modern tariff schedules of differentiated goods, quantities and rates. And whereas pre-modern tariffs had applied to merchants as individuals subject to the rules of the reigning sovereign and on a roughly per capita basis, in the early eighteenth century treaties increasingly differentiated between merchants as individuals, ships as extensions of a national legal personality and goods and cargo as national products (Nussbaum, 1950; UNCTAD, 1999). The focus at the time was on trade *balance* rather than need or use, implying that trade was coming to embody the rules designating status and recognition as well as becoming a means to articulate and realize a national interest. Indeed, although much trade was internal to the expanding empires and monopolies of intra-empire trade were often jealously protected, it was also fairly common for a metropolitan administration to loosen restrictions on trade with colonial territories simply in order to keep revenue flowing and prevent a rebellion (Borchardt, 1906). This exemplifies the extent to which signs of status, like possession of colonies, were becoming increasingly important in maintaining the integrity of any particular state sign, and trade was becoming a means of facilitating their acquisition and possession.

The tariffs themselves and the application of the MFN was also a means of signifying status between polities and within empires. For example, the Ottoman Empire was generally recognized to be a member of modern international society, but its membership was neither full nor that of a colony, and one means of signifying this distinct status was in restricting their ability to raise tariffs. They were saddled with a socially enforced maximum rate of 3% in the seventeenth century and were proscribed from raising it until just before the First World War (Nolde, 1932). Further, trade between colonies was generally excluded from MFN treaties between metropolises, and this was matter of conventional interpretation, not a clause that had to be included in particular instances (Hornbeck, 1909a). Further, polities wishing to avoid integration into some empire or other, like the Japan, Siam and Korea, would

also unilaterally grant general MFN privileges without negotiation, showing a limited amount of subordination in order to avoid complete subjugation (Jastrow, 1915; R. C. Snyder, 1948).

In contrast to the practices between metropolises and colonies or between empires and those seeking to avoid their grasp, the clause's function in signifying recognition and interest among the full members of international society in Europe was becoming fairly standard and somewhat egalitarian. The Utrecht treaties famously included an extensive trade pact alongside the peace treaties. The original formulation was for English and French subjects to enjoy equal rights wherever the counterparty's sovereign exercised executive power and to enjoy MFN privileges in all other cases (Nolde, 1932). The English parliament rejected this formulation, but not because it contravened mercantilist principles. Rather, it was taken to violate the pre-existing MFN clause in the Methuen Pact between England and Portugal, which had been concluded a decade earlier in 1703 (Nussbaum, 1950). However, the Eden Treaty of 1786 did include an English-French MFN clause, and it was aided by the appearance of Smith's *The Wealth of Nations* a decade earlier, which was very influential and argued in favour of using instruments like the MFN to approximate a single market despite national borders. Instead of transcending signs of national differentiation, though, the MFN in this period was typically a means of differentiating full members of international society, who had the ability to obtain this status, the subordinate members of that society, who had to grant it unilaterally, and the subsidiary extensions of the society's members, who had little say in the matter. Indeed, Coutain (2009) saw the MFN in this period as signifying 'the commercial equivalent of a self-enforcing collective security regime' (151).

Although the MFN had become a standard means of signifying class and equal status among full members by the late eighteenth century, that peak was followed, as they always are, by a decline. Several factors heralded the reassessment of trade in international society and the role of the MFN by extension. First among these was a series of war-induced trade embargoes, from the embargo of the American colonies during the American Revolution to the continental blockade during the Napoleonic Wars. Second was the volatility and uncertainty following the 1797 Bank Restriction

Act, in which the English Parliament proscribed the Bank of England from making payments or converting specie as well as permitting it to issue paper notes in small denominations. Third, just as Smith's argument for free trade marked a high water mark in the MFN's early career of signifying state status, Fichte's influential nationalist philosophy, which made mercantilism appear to be a more efficient means of realizing interest and obtaining advantage than prosperity through trade among equals, not to mention subjugated colonies. The result was a shift in the basic assumption of international, or inter-imperial, trade from being free subject to restrictions to it being basically restricted subject to exemptions.

Formulation as fashion

By the end of the eighteenth century, the MFN was already serving to signify commodified statehood, but the absence of meaning in the resulting international society became indubitably clear in the transition to, and course of, the nineteenth century. During this period, the commonly held interpretation of the MFN's denotation was reversed from what it had meant during the majority of the eighteenth century. Then, in the late nineteenth century, the interpretation reverted once again to its prior meaning. The implication is that the rule served to signify statehood and maintain international society, but international society itself was becoming increasingly removed from any kind of meaning. The fact of the rules superseded their content, because the rules proliferated despite their content being arbitrary. This is a strong claim demanding substantiation, but an extraordinary history informs the peculiar narrative.

To reiterate, a typical eighteenth century MFN treaty included the idea that the traded goods and their conveyance were, in some sense, an extension of the exporter's national legal personality, the phrase 'most-favoured nation' was prevalent, it referred to the terms granted to the most-favoured third state, and the clause was understood to adapt automatically to changing conditions of any given third state that might become most favoured in the future. That is, it had the form of an algorithmic formula, and 'most-favoured nation' was a variable that could be filled with whatever current value applied, and conversions would occur automatically. In historical legalese, this is known as the unconditional pro futuro

formulation, and it was occasionally specified with a phrase like ‘immediately and without condition’ (Hornbeck, 1909a).

Until 1778, a few MFN treaties among European polities had included a condition that, if the terms of trade were to change between two counterparties because of a new arrangement between one of them and a third party, the other counterparty would be absolved from granting lower trade barriers without new compensation from the other (Kulischer, 1930). In other words, the MFN implies a negative promise not to disadvantage the counterparty relative to others and a positive promise to extend the benefits granted to others, but this condition made the positive promise contingent on compensation. This was known as the ‘conditional formulation’, although some have suggested that ‘quid pro quo’ or ‘compensatory’ formulation would be more accurate (Hock, 1931; Kulischer, 1930). The condition’s practical effect was to eliminate the automaticity in the network of trading relations among those with MFN trading relations, but as long as it was limited to a few odd cases, the overall network was unaffected.

In 1778, however, the American authorities concluded a treaty with the French that started a snowball effect of increasingly frequent conditional formulations appearing in MFN treaties. Why the nascent American administration opted for this formulation in minority use is not entirely clear. Kulischer (1930) takes it to be motivated by hypersensitivity to status in that the new government was paranoid of not being treated on equal terms to existing full members of international society, which would make the MFN more an economic signifier of status, a tribute or indulgence, than a means of increasing anyone’s welfare. There is also record of a letter from the American Secretary of State to the American ambassador to Argentina justifying the preference on considerations of fairness in terms of preserving the equal status of states (Moore, 1906). Whatever the precise motivation, blocs emerged with the American government propagating the conditional formulation in its treaties and the British crown continuing to prefer the unconditional formulation.¹¹⁶

¹¹⁶ Although the British were so worried about the potential of the conditional MFN to ruin the prevailing free trade regime that parliament considered granting unilateral MFN status to its own disadvantage in order to preserve the currency of the clause (Hock, 1931), they also concluded at least one conditional treaty during this period with the Portuguese government in 1810 (Hornbeck, 1909b).

A decisive shift in favour of the conditional formulation came in 1825, when the American government concluded a treaty with the Central American Confederation that was based on the principle of MFN conditionality and made it the standard for the western hemisphere (Borchardt, 1906). Within five years of that pact, conditional treaties had become more common in general, leaving rare cases of unconditional formulations to appear only in unilateral grants (Isay, 1928; Wickersham & Barbosa de Magalhaes, 1928).

Once the conditional formulation had become dominant, it became very difficult to negotiate any new treaties because of the loss of automaticity. A change in any bilateral trading relationship would induce a chain reaction of demands for compensation and renegotiations. Because the *renvoi* character of the MFN made a network of interdependent relations, terms of trade were never strictly bilateral, so there had to be a common principle informing the structure of the system. That principle had reversed completely within half a century.

Given the structural bias towards uniformity in formulating the principle, it is indeed peculiar that the meaning of the principle was able to change so diametrically in the first place. The fact that this change occurred supports the argument that the function of the MFN was more symbolic than economic. The explicit meaning of its content was secondary to its capacity to alter the sense of other signifiers. It seems to have been easier to change the sign of statehood, and the system of international society by extension, by way of changing one of its marginal components than to try to redesignate a sign at its core.

Plus ça change, plus c'est la même chose

As of 1830, the MFN system had lost its effects in terms of promoting trade and automatically lowering tariffs with a ratchet-mechanism of cascading reductions in trade barriers. The new system, in which each new trade agreement entailed renegotiating existing trade relationships, such that parity would be simulated through direct compensation, lasted for decades. This reversal indicates that the role of the MFN in signifying status and membership in international society had priority over its ostensible functions. This interpretation is perhaps overly bold given one

reversal of the rule's denotation. However, after three decades of predominance, the conditional formulation of the MFN itself started to fall into disuse until it was later virtually eliminated in favour of its predecessor, the unconditional formulation. A single reversal would perhaps be credible as a principled reconsideration of a rule as a regulation of a practice, but a second reversal indicates that the principle is illusory and the regulation is arbitrary. Instead, it is a marker, a sign of something else.

It is relatively easy to date precisely when the system started to revert back to the unconditional formulation. One indication is a Russian-French MFN treaty including the unconditional formulation that appeared in 1859. What makes that treaty remarkable is that the same two parties had concluded an MFN treaty based on the conditional formulation only two years earlier (Hornbeck, 1909b). The second indication was the conclusion of the Cobden treaty in 1860, which was both a momentous document in its own right as well as a pointed attempt to devalue Prussia's status in the system. Indeed, the treaty is universally assessed as a watershed in the history of modern trade practice (Borchardt, 1906; Coutain, 2009; Hornbeck, 1909b; Nolde, 1932; Riedl, 1928; R. C. Snyder, 1948; UNCTAD, 1999), Jastrow (1915) takes it to be the rule that made the MFN a matter of international legal common sense, and Hock (1931) saw in it such a dramatic shift of international society that international trade began to function almost like domestic commerce. The effect was so dramatic because the two parties to the treaty, the British and French empires, had so many established trade relations that, in making each other most favoured nations, they caused a cascade of tariff reductions throughout international society.

The standard narrative of how the treaty came to be is that, on the one hand, the British had always remained iconoclast liberals seeking to maintain a system of free trade (Schwarzenberger, 1945a), and this commitment met a willing taker in Napoleon III, who was unable to lower tariffs for reasons of domestic politics but also wanted to reinstate the pre-revolutionary trade relations embodied in the 1786 Eden treaty (Hock, 1931). As ever, the standard historical narrative of the Cobden treaty serves the function required by prevailing ideology, but details destabilize it.

First, the British Empire had agreements with its self-governing colonies, like Canada, not to include them in its own trade treaties, but continued to do so anyway. In fact, imperial colonies would not obtain independence from the metropole in trade treaties until five decades after the Cobden treaty (Clute & Wilson, 1958). Indeed, Coutain (2009) goes so far as to argue that a primary motivation for the British to maintain a general tariff rate at all was that it allowed them to institute preferential rates with the colonies that made it easier to maintain market power.¹¹⁷ Further, British negotiators often secured unusual formulations in treaties throughout the modern period that would weaken the conventional understanding of standard clauses, like the MFN, in favour of more mercantilist effects (Koulischer, 1931). This usage of the MFN in the British Empire indicates that it served one purpose, designating full members of modern international society, in two ways. First, potential for it to shift arbitrarily from one dogmatic interpretation to its opposite reinforced the rule's capacity to include and exclude by reconfiguring the network of relations it defined. Second, granting it or denying it served to deny membership to polities that seemingly had acquired all the required attributes of statehood. In that sense, the MFN reinforced the commodification of statehood by removing it from further from use value.

The MFN was no more inclusive, principled or meaningful on the French side. While the letter of the Cobden treaty was liberal, French policy witnessed a simultaneous shift from MFN-treaties, which left tariff rates open, to a more protectionist practice of negotiating MFN-based tariff treaties, which set tariff rates but using the MFN as a constraint (Coutain, 2009). The effect was to institute a system of trade barriers with the MFN as a upper limit while at the same time concluding a treaty for the sake of free-trade and that reintroduced the more liberal unconditional formulation. Further, just over a decade after the Cobden treaty, the French came under pressure to extend MFN status to the Prussian empire and the Zollverein following the Franco-Prussian war, much to the dismay of French protectionists, whose views were enjoying renewed popularity after the French defeat. The defeat was so dramatic and the French administration was in such disarray that there was concern there would be

¹¹⁷ The fact that the empire's preferential trade relations with Canada in particular led to a twelve-year trade war with the German empire strongly supports this interpretation (Jastrow, 1915).

insufficient manpower to maintain control over the territory even in the wake of a peace agreement. Rather than have to submit to Prussian garrisons, the French bargained for the return of their prisoners of war with article 11 of the Treaty of Frankfurt, which granted unconditional and reciprocal MFN status to the Prussian empire (Oakes & Mowat, 1930). This caused some in France to suspect a global conspiracy to lure them irrevocably into a free trade system and render it impossible to implement protectionist policies, because they were effectively estopped from denying to their allies in the future what they had already granted their enemies (Hock, 1931).

Thus, just as in the British case, the French were also pursuing ends that had very little to do with the considerations of liberalism or fairness that would mark a reciprocal and unconditional MFN's use value among sovereign equals. Instead, its introduction was tied to the protection of interest by means of tariff barriers, and its extension was a matter of desperately trying to preserve the capacity of the state to be symbolically efficacious, even though those extending it were directly opposed to the actual principle. The MFN for them was, like being mentioned in a last will, a means of signifying affiliation but one best avoided altogether. Being integrated into a network of MFN relations was a sign of statehood, and the significance of that signification superseded other considerations of propriety or prudence.

With the Cobden and Frankfurt Treaties establishing Europe's most populous and powerful polities as the core of a network of unconditional MFN relations, the unconditional formulation was again set to reverse the predominance of the conditional. Those who (re-)adopted it, like the Zollverein, tended to go on a spree of reconfiguring their trade relations on that basis, and those who resisted it, like Austro-Hungarian empire and the Italians, tried in vain to establish a regime of preferential trade relations in response (Hock, 1931). As the century progressed, further laws and treaties continued to undermine the remnants of the conditional formulation. The German empire initiated another wave of shifts to the unconditional formulation with the 1902 Tariff Act (Hornbeck, 1909b), though Jastrow (1915) dates the shift in German policy and its early effects about a decade earlier still. By 1908, the British maintained 46 unconditional MFN relations, the

Italians had 45, and virtually all other states recognized as such in international society had at least 30 (Hornbeck, 1909b). Given that there were only about 60 polities of that status at the time and that many dyads, such as Bolivia and Bhutan or Nepal and Andorra, had insufficient trade to require a bilateral treaty at all, these numbers do indicate general adoption and a dramatic reversal.

The official American policy of preferring the conditional formulation was its last bastion, and even there the concerns of status and recognition that had inspired the conditional formulation in the first place waned with the increase in American prestige following the First World War. In 1919 an American Tariff Commission recommended abandoning the policy of preferring the conditional formulation for reasons of self-interest and harmonization (Wickersham & Barbosa de Magalhaes, 1928). The American congress agreed in 1922 by passing a Tariff Act to that effect. The following year, the American administration concluded its first unconditional treaties with the newly established Czechoslovakian government, the reconstituted Germany government and with the Brazilians (Kulischer, 1930; Riedl, 1928). Between 1920 and 1940 only nine instances of the conditional clause in MFN treaties appeared (R. C. Snyder, 1948). The World Economic Conference confirmed that the unconditional formulation of the MFN was the universal standard for trade treaties, and the Economic Committee of the League of Nations followed in 1929 (Bailey, 1933; Vesel, 2007).

During the production period, when the MFN served more as a signifier of membership in international society than a principled rule to manage that society or achieve any meaningful purpose, regulation was synonymous with fashion. In fact, the date is often more informative than the text itself because the same wording in different decades could denote different rules, depending on which interpretation predominated (Hornbeck, 1909b, 1909c). Rules were interchangeable, and they served notably as a means for state representatives to produce statehood. Statehood, in turn, was a commodity subject to production and fairly independent of the actual content of the rules. Just like the caprices of sartorial fashion, in which clothes commodify the body without affecting its content, the MFN as a rule of modern

international trade reinforced a certain representation of the state without impinging on actual functions or capacities.

Conclusion

The modern state was a commodity, and international society was the transactional space in which its value was established and maintained through iterated exchange. Rules, like those above, were the medium of exchange. Like most exchange media, their value was a matter of fiat. The more a representation was exchanged, the more its value was a question of convention rather than function or purpose. Indeed, the content of any given rule, be it the existence and heritage of a nation, the range of a cannon or the meaning of a three-word phrase in trade law, was subject to redefinition and distortion without diminishing its use. The systematicity of the rules was prior to the narratives of their meaning and intelligibility.

For all its superficiality, though, the production system was not yet utterly divorced from a reality principle. The rules were subject to whims of fashion, but they were still broadly intelligible, and the system they constituted was not so abstract as to defy interpretation. Although most subjects would never have or care to engage with the principles of effective occupation or possession associated with the cannon-shot rule or the relative merits of the unconditional or conditional formulations of the MFN, the ideas of a rule equating territorial exclusivity with armed force or the difference between diffuse and direct reciprocity are easily grasped. International society was a contrivance, but it did not yet entirely alienate subjects from meaningful political existence or action. That would only come with the advent of the simulation system, and its time was not long in coming.

Chapter 6: The interminable simulation of international society

"Today the whole system is swamped by indeterminacy, and every reality is absorbed by the hyperreality of the code and simulation. The principle of simulation governs us now, rather than the outdated reality principle. We feed on those forms whose finalities have disappeared. No more ideology, only simulacra." (Baudrillard, 1993, p. 2)

The simulation of late modern international society diverges dramatically from the systems that preceded it. The pre-modern system based on use value was driven by a teleological notion of universal salvation, and the structure of how political organization was conceived reflected its instrumentality. The modern system fragmented this teleology into several standard, commodified states, each driven by a particular teleology of contrived interest. Whereas rules formerly had the character of gospel commandments, they became a fiat currency to maintain the circulation of exchange value. The simulation system reintroduces the element of universality to the system's grammar, but without teleology of any sort. The rules that define the state, that relate states to each other, and that constitute international society are the means and ends of that society because the goal and inevitable outcome is perpetuation.

In each of the preceding systems, the teleologies gave the rules value and a course to the narrative. In the system of use value, approximating the divine kingdom, despite disputes about what that entailed, provided a universal designation of progress. In the system of exchange value, particular attributes of excellence, like superiority, glory or civilization, could provide the same. Meaningful change within those systems of value was possible, as was change between them, though with a corruption of meaning. The state of simulation, however, is a historical terminus for two reasons. First, the lack of a teleology has made progress towards one impossible. To the extent that the existence and persistence of international society is taken as a quasi-natural fact rather than a means to an end or the concatenation of the pursuit of disparate ends, it has nowhere to go in historical terms. Second, a system of sign value and without teleology is already devoid of meaning, so the progressive

degeneration of meaning from pre-modernity has also reached its end with simulation. Once meaning has dissipated, there is nothing left to lose and no metric with which to discern the absence.

The end of history represented by a simulation system is not necessarily the end of change. On the contrary, the relatively stable anchor sign that characterized the counterfeit system was an obstacle to historical change, and the standard form of state in modern international law also provided a certain reference that resisted deviation. The simulation system, by contrast, is likely to be characterized by a proliferation of forms, many of them ephemeral, that come and go as the grammar of the larger system changes to accommodate local shifts in the sign value of individual signs.¹¹⁸ However, these changes would be superficial variation in the grammar of the simulation, not substantive changes to it. Returning to the fashion analogy mentioned in chapter two, such changes would be equivalent to fashion trends replacing each other in infinite succession and fashions varying by social milieu, none of which actually changes the principles, meanings or grammar of sartorial aesthetics. In a hyperreality, change becomes even more frenetic, but *historical* change ends.

The substantive stasis of the simulation system is due to the fact that it is based on sign value. Whereas the value of the signs in the counterfeit system depended on their relation to the anchor sign that stabilizes them and allows them to convey meaning, and value in the production system was a function of fungibility and exchangeability of signs due to standardization, in the simulation system the value of each sign is a function of its relations to other signs, none of which is meaningful. The lack of meaning, however, is not readily apparent. Rather, the proliferation of signs and the self-referentiality of the system makes it appear as a thoroughly, or even excessively, signified and apprehensible reality. Because this type of system can redesignate existing objects, create new ones and adapt fluidly, it appears more real

¹¹⁸ This might seem to imply agency, but it can also be the case that local changes ripple through the system in a series of chain reactions that take a certain amount of time to travel from one sign to another. These could produce complex and non-linear patterns that bear little resemblance to any initial catalyst. In principle, such patterns could be reproduced in a computer simulation, but the point here is that they do not presume agency without needing to specify a particular frequency, pattern or transmission mechanism.

than a system constrained by an anchoring sign. For example, a contradiction is an irritation in a counterfeit system and the relationship of signifiers and signifieds would need adjustment without being able to change freely, but a contradiction in a simulation is much more easily integrated because of the lack of real meaning. In that sense, a simulation system is hyperreal in that the world it represents is less constrained than the merely real. Consisting only of self-referential representation, hyperreality is intensely verisimilar and simultaneously acutely unreal.

Applying the notion of simulation to the cases in question and international society in general is difficult. The difficulty, however, is more a matter of achieving critical distance from the hyperreal in order to highlight the real. The first case, nationality as a basis for statehood, is a relatively clear instance in this historical period. As I will show, the shift from the waning production period to the dawning simulation period brought with it striking legal innovations and complications. Statehood becomes reflexive and fluid in legal terms, yet semiotically central in how all other rules immediately impinge on it. Similarly, nationality shifts through phases of maniacal and explicit fetishization through to moralistic reification in the form of a human rights. The convention of connecting nationality and statehood has managed to persist through the history from the age of fascist nationalism through to post-national, cosmopolitan international society, ever present but without clear signification. Similarly, the territorial sea evolved from its basis in effective occupation and protecting human populations through to a hyper-sophisticated geometry spanning several designations of sea types that collectively cover all maritime surfaces and subsurfaces in a process that spanned multiple 'universal' conferences and decades. The sea, proverbially immune to human will, is recreated as an object subject to the law of international society, making it perhaps a greater arbiter of reality than the tides. The MFN is an even clearer example of self-referential legal sophistry. After a schizophrenic nineteenth century, in which its meaning underwent two reversals to return to its point of origin, it inaugurated the simulation era with bewildering tables of double-tariffs around which the MFN was supposed to apply before re-emerging intelligibly but with severe limitations as a principle of the GATT system and finally achieving new levels of abstraction in an arcane web of bilateral investment treaties (BITs). The principle remained as a pro

forma signifier of fairness, while the sophistication of the system in total removes it from meaning or practicability.

Sleepwalking towards post-national international society

The fact that a seemingly contradictory term, like 'post-national international society' is intelligible is indicative of its hyperreal character. It describes the late modern condition of international society in which signifiers of national identity, like 'German', 'Estonian', 'Han' or 'Palestinian', are devalued relative to more cosmopolitan signifiers, like 'European', 'Asian' or 'democratic', while simultaneously being indispensable to the grammar that underlies any transition from the former to the latter. In other words, nations remain an important element of states' and international society's signifieds, even as international society is coming to represent itself in other terms. Although this motion away from strong representations of nationality would seem to be undermining international society, hyperreality is beyond contradiction. So long as the rules of international society refer to states as their sources or targets, and states include nations in their signifieds, international society can bend in almost any direction without breaking since the each signifier signifies only other empty signifiers.

The task in this section is to describe how the standardized national state of the production system developed into the formless, but ineradicable, national state of the simulation system. As with most of the transitions between systems described here, the shift from the production system to the simulation system was identifiable but not abrupt. Counter-intuitively, it also involved a motion towards a still stronger representation of national statehood than had been present in the production system before transcending the pursuit for a fixed image of statehood and becoming extremely pliant. In particular, this involved, first, official valorisations of national self-determination, sophisticated exceptions to it in the form of minority treaties as well as a fairly unanimous legal definition of statehood. This motion progressed through the regime of the League of Nations and was strengthened by developments in the history of the United Nations and decolonization. Sign value came to its apogee, however, later with the arcane combinations of polity ranging from the

European Union and semi-autonomous republics to overlapping territories to accommodate third-order enclaves and perpetually demilitarized zones between apparently single nations.

Rules, exceptions, exceptional rules

Whereas the counterfeit system required the language of 'polity' and 'congregation' to bring Christendom into relief with the current national state, and the production system began with the awkward condition of narratives of nationality being devised almost as an afterthought to give the sign of modern statehood symbolic efficiency *ex post*, the simulation system begins already with a recognizable sign of national statehood. And although the end of the simulation system is characterized by such sophisticated legal articulation of national statehood that it becomes perhaps the most symbolically efficient sign in the system while also defying meaningful expression, the system began with a move towards cementing and universalizing some commodified aspects of that sign from the production system. The first such aspect was the linkage of nationality to statehood, which was reinforced and strongly legalized in the doctrine of self-determination following the First World War. While it was further commodified, however, sign value quickly began to supersede exchange value in the minority treaties. The second such aspect was the shift from statehood as a pre-condition for international society and principle articulated among jurists to a legal rule contained in a multilateral treaty. Before describing the wholesale perversion of these principles, I first describe their emergence.

Representing nations as coherent political subjects with attendant legal capacities was not original to the simulation system, but it initially failed to exert much symbolic efficiency. National self-determination as a normative principle of political organization appeared as early as the Declaration of the Rights and Principles of Man and of the Citizen in 1789, article 3 of which states that 'The principle of all Sovereignty rests essentially in the Nation'.¹¹⁹ It also featured as an important

¹¹⁹ Author's translation. It is also worth noting that Freeman (1996) as well as Barnsley and Bleiker (2008) see the principle expressed already in Locke's expression of a right to secede nearly a century earlier. Locke's concept, however, is derived from a concept of individual self-determination, which is not necessarily compatible with the collectivity implied by national symbols and narratives.

principle in the political theories of Mill, who argues that the fellow-feeling of nationality is necessary to inspire the compromises required in free common government (Varouxakis, 2002), and Lenin, who argued that, although independent national states were an instrument bourgeois oppression, national self-determination was provisionally useful as a means to organize resistance against that oppression through secession, especially if nationality was understood in terms of pan-Russianism (Lenin, 1972 (1914)). This representation may have failed to take root because the nation as a natural category had not yet become fixed in the semiotic order, because it would patently contradict the elements of prestige and civilizational supremacy that also characterized the production order, or because the nation and the state were still comparatively sparsely signified and in need of further semiotic relations to differentiate them. Whatever the case, it did not immediately catch on.

National self-determination only became a moving sign of significance to all of international society with the entry of the United States to the First World War. The historical point of reference is Wilson's fourteen points, in which the American president elucidated American war aims a few months after joining the continental war and nearly a year before the war ended. Although no point explicitly invoked national self-determination as a phrase, several treated the need to establish borders in various contexts along 'lines of nationality', and point 5 calls for a colonial claims to be considered at least with reference to 'the interests of the populations concerned' in addition to the claims of the title-holding metropolitan governments. In order to clarify the supremacy of representation over agency, it is important to note that Wilson was not seeking to universalize a rule of national self-determination, even assuming that a universal formulation could be derived from his particular statements in the fourteen points. In fact, in reference to the claims of various national groups in the disintegrating Austro-Hungarian empire, he stated to William Wiseman, the chief of British intelligence in the US at the time whom some ranked above the ambassador, that 'We have already recognized Masaryk, Dmowski and their groups, and we cannot listen to anybody else' (qtd. in Snell, 1954, p. 367). At no point in the fourteen points does Wilson invoke the phrase 'national self-determination'. Rather, Wilson seems to have been advocating internal self-determination in the sense of universal civil rights to participate in the governing of a

polity's affairs rather than external self-determination in the sense of autonomous political and legal entities to represent each nation in international society (Thronveit, 2011).¹²⁰

Despite Wilson's limited intentions, the association of the fourteen points with the advent of a doctrine of national self-determination was assimilated into the semiotic order of, and meta-discourse about, international society according to its needs. In terms of the meta-discourse, this reading probably originated with Carr, whose *Twenty Years Crisis* appeared even before the titular crisis had ended and heavily criticized the disintegrative effects it attributed to Wilson. Carr wrote, for example, that 'Wilson and many other makers of peace treaties saw in national self-determination the key to world peace' (2001 [1939], p. 46).¹²¹ The association of Wilson and self-determination has become an indelible part of the scholarly meta-narrative about late-modern international society whose recitation continues, as Gill (2003) demonstrated only a decade ago, writing that 'Woodrow Wilson's Fourteen Points of 1918 and the US position after 1945 both sought to grant nations the right to self-determination and emancipation from colonization' (59). The association of the fourteen points and self-determination is also a feature of the popular historical narrative, as evidenced by attributions of later American secretaries of state Acheson (Beisner, 2003) and Albright (Binder, 1999) and even the description on the website of the Woodrow Wilson Presidential Library & Museum and countless history textbooks. Whatever Wilson's intention, the nation as a self-determining entity had joined the signified of the state in his wake, if not by his design.

Thus, the state was no longer just a narrative foil to the nation; the two had become semiotically joined such that they implied each other. The nation, as described in the last chapter, was a fairly hyperreal sign from the beginning, resisting definition and being a contrived concatenation of symbols projected forwards and backwards

¹²⁰ For more on the sometimes vague distinction between internal and external self-determination, see (Emerson, 1971)

¹²¹ Given Carr's close involvement with Wilson's ideas about self-determination and their implementation as a diplomat in the British Foreign Service during the war and attending the Versailles peace conference with the British delegation upon its conclusion, it is somewhat odd that he would attribute this view to Wilson so strongly. Perhaps it was simply an idea whose time had come, and Wilson was merely popularly depicted as the spokesman of the time.

through history by means of narrative construction and media. The state on the other hand, was still apprehensible in the production system as a vehicle for interest and a container of capacities that, in combination with others of the same type, yielded a Vattelian international society. It had become standardized and reproducible, but the terms of its definition had not yet become so abstract as to allow a simulation that could diverge and be independent from the real. This abstraction followed soon after the popularization of the principle of self-determination, and it began somewhat counter-intuitively with a concretization.

The concretization of the definition of statehood came in 1933 with the Montevideo Convention, which one eminent expert on statehood as an object of law has called 'The best known formulation of the basic criteria for statehood' (Crawford, 2007, p. 45). Although the scholarly discourse about statehood as an object of law displays many variations on the theme, the Montevideo Convention is universally invoked as the original definition of statehood in public international law. The nominal function of the convention was to articulate the rights and duties of states, so its reception in international legal discourse as the definition of statehood is rather a side effect, though one arguably necessary to achieving its primary purpose. The definition appears directly in article 1, which states that 'The state as a person of international law should possess the following qualifications: a) a permanent population; b) a defined territory; c) government; and d) capacity to enter into relations with other states' ("Convention on Rights and Duties of States," 1933). Although the document itself was a treaty internal to the Organization of American States, it became the most prominent signifier of legal statehood.

The widespread acceptance of the Montevideo criteria belies the mystery of their ready integration into the signs of international society and their obscure origins. One critical scholar suggests international society's uncritical acceptance of them as well as their emergence seemingly out of nowhere might be related: 'So apparent were the Montevideo criteria to contemporary observers that few thought to inquire as to their basis or origin' (Grant, 1998-1999, p. 416). Although the criteria did reflect a new but widespread notion of international society, this equation is too easy, because the criteria do represent a remarkable divergence from the implicit criterion

of recognition described in the last chapter. In fact, recognition does not appear. It is no coincidence that this demotion of recognition came two years after the advent of the Estrada doctrine, which was originally a Mexican foreign policy of recognizing states as members of international society rather than governments as legitimate or not (Estrada, 1930; Jessup, 1931), which makes recognition more formally legal than moral in any given case and much more durable. The Estrada doctrine soon attracted considerable approbation, and many states adopted a version of it (Brownlie, 2003; Malanczuk, 1997). Further, because the criteria so clearly expressed the contemporary dogma of international society, bringing this depiction of statehood in relation to the doctrine of self-determination is necessary to reveal how the simulation of international society was produced and abstracted from reality in the minority treaties.

As to the origin of the Montevideo criteria, the most obvious source seems to be Jellinek's *Staatslehre*, which was an early work of late modern social science akin to Weber, Durkheim or Simmel that had appeared decades earlier. Indeed, this is the origin provided in a leading textbook of international jurisprudence that has been popular for decades (Malanczuk, 1997). Instead of deriving the state as a consequence of Creation and human nature, in the tradition of Bodin and Vitoria, or assuming its existence in the course of describing the rules of international society in the tradition of Vattel, Jellinek saw the state as a recurrent mode of mass social organization and sought to provide a theoretical and historical analysis. The state was neither the culmination nor the setting of his narrative, but its main character whose progress and growth could be followed through history. Part of the analysis consisted of dividing the state into its key elements, which for Jellinek were territory, people and government (Jellinek, 1914), which makes them nearly identical to the first three Montevideo criteria.¹²² The first aspect of interest in the Montevideo

¹²² These are the common English translations of Jellinek's terms *Staatsgebiet*, *Staatsvolk*, *Staatsgewalt*. Two problems with these translations should be noted. First, the German terms all contain *Staat*, state, as part of the noun, making each of the particular nouns merely inseparable specifications of the general term. They are part of the signified of the state and nothing else. Second, 'government' is the translation of *Staatsgewalt*, and *Gewalt* generally means 'violence'. While it would be too strong to suggest that this depicts violence as inherent to the state, because *Gewalt* can also mean 'power' in certain usages, like *Exekutivgewalt* for 'executive power', it does imply compulsion as a necessary and inherent element.

criteria, then, is that a self-consciously theoretical and ideal typical depiction of the state that was devised for analytical purposes came to be the legal definition of statehood and international legal subjectivity for application to 'real' cases.

The second fascinating aspect is that the previously predominant *de facto* criterion of recognition was replaced with the novel and significant criterion of the capacity to enter into relations with other states. The previous chapter described the criterion of civilization, typically connoting Christianity in a society that had already abandoned the goal of salvation, that informed the recognisability of a polity as a potential member of international society, implying that recognition was a superordinate criterion. Recognition was an important element to the positivist image of the rules of international society because it contained the consent of the existing members, those who had the ability to legislate and shape the society. As a criterion, recognition seemed to include considerable latitude on the part of existing members to decide individual questions without being bound by general notions of what statehood was and was for, though they were in the event heavily conditioned by what statehood had already become. In subjugating the laws of international society to its members' politics, the recognition criterion allowed for interest to serve as the decentred and amorphous answer to the question of international society's teleology. Recognition yet allowed for purposes and intentions where meaning and ends no longer applied.

The Montevideo criteria, however, make no mention of recognition. Rather, the convention takes as its fourth criterion the capacity to enter into relations with other states. The orthodox reading of this criterion is as a measure of the degree to which states will be able to meet international obligations, and its practical measure is a combination of two other criteria: effective government and that government's control over claimed territory (Crawford, 1978). But it has two other more subtle effects. First, it fosters a legal system seemingly independent of the attendant society's members. All four criteria formally emerged from the entity in question. This aspect remained formal, because it remained the case that territory and population could not be invented *ex nihilo* and would have to be yielded by existing members, but the consent, the will, of existing members is no longer an explicit consideration. Thus, it would seem as if this rule, which is connected fairly directly to

all the other rules in the system, was becoming more objective in the sense of detachment from any subjective determination. The reality of international society was gaining an apparently independent existence, able to structure and shape life without being symmetrically subject to subjective wills.

The second muted effect of the switch from recognition to capacity to enter into relations with other states is the reversal of the relationship between state and nation. Whereas salvation was a universal teleology that pertained to humanity in general and Christendom in particular, and interest was a more solipsistic teleology that bound the signified of the nation to the signifier of the state, which was the means to achieve the ends of the nation, the ability to maintain relations with other states brings the determination of the nation into the purview of the state. As nations proliferated through modernity, recognition could be accorded while the other typical characteristics of statehood were not yet settled. It was quite possible to recognize Russia as the state containing the Russian nation, even though its territorial and demographic expression fluctuated throughout the period. As long as a nation was apparent, statehood was at least potential, and recognition could make this potentiality an effectively objective sign. The shift to state capacity, however, meant that a state would first have to be constituted, and whatever nation it subsumed as the signified could come later. Although it was also the case in the production order that the bureaucratic apparatus of the state would often create the national symbols and narrative, the nation was not a legal attribute of statehood. The fourth Montevideo criterion, by contrast, made nationality a legal category subsidiary to the state as a sign determined by the newly objectified rules.

These claims are well reflected in the minority treaties. The minority treaties refer to a series of treaties between council members of the League of Nations and states newly created in the wake of the First World War.¹²³ The occasion for the treaties was the gap between the received version of Wilsonian national self-determination and

¹²³ There were also 19th century treaties among some established European powers and various newly established states that superficially resembled the minority treaties of the League regime in the 20th century. The primary difference is in the systemic shift from a positivist doctrine of interest to a hyperreal system of legal formalism as reflected in the Montevideo criteria. The shifting semiotic context implies that the content must also be considered in a different light. For more on the 19th century minority treaties, see (Pearson, 1983).

international society's flawed practice of selectively erecting states with only vague reference to nationalities as existing symbolic and narrative formations. That is, there was a connotative excess such that the nation exceeded the state's denotation. As Kovács (2003) put it, 'the Minority Treaties were intended to limit the damage and injustice that self-determination of the majority inflicted on the minorities' (437), with the proviso that both these minorities and majorities had been recently made, not born.

Assuming coherent, natural nationality and states as the vehicles of their interests, the minority treaties seemed unobjectionable. Indeed, in most cases they extended protections that were already contained in national laws regarding the treatment of any citizen of the newly created states, but they added explicit provisions to determine how nationality and citizenship would be assigned in the reconstituted international society, to forbid discrimination on those grounds, and to add an element of accountability before international society. This was reflected in eight standard articles contained in each of the minority treaties: the first to the effect that nothing else in the treaty would be read to contradict the guarantees of minority rights; the second protecting the life, liberty and the freedom to moral religious practice; the third guaranteeing equal access to public resources and official positions as well as free use of minority languages in public spaces; the fourth granting the nationality of the state party for all inhabitants without another nationality; the fifth stating the freedom to establish particular cultural institutions; the sixth was a commitment to provide schooling in minority languages where the population density warranted; the seventh to provide access to obtain the nationality of the state in question for all non-inhabitants who claimed it; and the eighth was the League's guarantee of the preceding provisions and naming the recently established Permanent Court of International Justice (PCIJ) as the arbiter of implementation and the League as the international executor. This formula was replicated in the treaties of St. Germain-en-Laye (Austria), Neuilly-sur-Seine (Bulgaria), Trianon (Hungary), Lausanne (Turkey), and the Little Treaty of Versailles (Poland).¹²⁴ The Treaty of

¹²⁴ This is not an exhaustive list. There were others, like the 1920 Austro-Czechoslovak Treaty with regard to Citizenship and to the Protection of Minorities and the 1919 Treaty between the Principal Allied and Associated Powers and Roumania, as well as unilateral declarations registered with the League which are also 'minority treaties' and follow the same pattern as the treaties listed. Those

Lausanne included additional provisions guaranteeing religious freedom explicitly against the Muslim majority and explicitly mentioning the Greeks as a minority, and the sections of the Treaty of Versailles creating Poland and Czechoslovakia contained special provisions for the German and Ruthenian minorities created by those designations.

Two aspects of the minority treaties, however, reveal the extent to which self-determination was being simulated. The first is that the minorities covered by the treaties acquired no personality through them. That is, their self-determination became a question that the League, representing international society in this instance, arrogated the right to answer to itself. This applied even when no new state was required, as when the Aaland Islanders requested assimilation to Sweden rather than remaining in Finland, which the League jurists denied on the grounds that such a concession 'would be to destroy order and stability within States and to inaugurate anarchy in international life' (qtd in Nanda, 1981b, p. 266). Just as the mandate system was a means to perpetuate the fiction of states as vehicles for nations while opportunistically denying nationhood as convenient, the minority treaties did not so much give the newly created minorities a means of determining their fates as members of international society as create a hierarchy of subjugations. At the top of this hierarchy was the grammar of international society's increasingly legal expression, followed by its instantiation in particular interpretations of it, then the newly created states, who were at least parties to the treaties and with the minorities as supplicants at the bottom. Correspondence from Clemenceau to Paderewski, Polish Prime and Foreign Minister during the Paris Peace Conference, suggests that this hierarchy was intended, though the inclusion of the PCIJ as arbiter was included to keep international society above particular states (Dugdale & Bewes, 1926). Self-determination was a symbolically efficient sign motivating the peace proceedings and the form of the treaties themselves, but in the event it signified other-determination.

listed seem to have the greatest reception in the discourse and amply exemplify the objectification and legal simulation of subjects by international society described below.

The second aspect of the treaties is the profusion of new legal signification in order to create a fictive reality of signification and obscuring the real. Whereas the counterfeit system was characterized by an anchor sign that preserved the unique interpretation of other signs, and standardized, commodified, interchangeable signs characterized the production system, the form of the state in the simulation system is neither unique nor standardized copies. Here there is no model and no absolute coordinate. The meaninglessness of national statehood was confronted with the explicit principle of national self-determination. The artificiality of national self-determination was confronted with rules about how to accommodate the deficient principle. The untenability of the rules was confronted with a rule treating the application of the rules. The result was that the sign of national statehood persisted by qualifying its fictional signified with further fictions, each adding a qualification that removed the representational system of international society away from the subjects subsumed under it. States could be created *ex nihilo*, nations were designated by states, and the system was ratified by the same ephemeral rules of statehood.

Curing excess with surfeit

Until this point in history and in this narrative, the signs of international society had emanated from Europe with very little exception and access to them has been restricted. Only very few culturally non-European societies had been able to claim integration into the system of signifying rules such that their claims were accepted. Wilsonian self-determination was a means of bringing the nations that states were supposed to signify into closer alignment with their admissible signifiers in a very limited range of European cases. The League's mandate system was a legalization of rules that preceded and could exist independently of their later formalization. International society was by and for the culturally and, to a large extent physiologically, European.

Just as the religious wars that brought an end to the counterfeit order were brief in relation to the durations of the orders that preceded and succeeded them but still lasted several decades, the First World War was only a dramatic phase of the critical juncture from production to simulation that began perhaps as early as the Russo-Japanese War and has only finished fairly recently. Although the transition from

production was not instantaneous, the Second World War and its end marked another non-linear change in quality. That the Second World War was largely a product of nationalism and a militarist depiction of statehood fetishized to an unfathomable degree is an important reading of the events that is familiar enough not to require recapitulation here. The more interesting and less obvious aspect is how international society adapted, avoiding the industrial murder that characterized the war while continuing to fetishize statehood and nationality. The argument here is explicitly *not* that late-modern, post-war international society was a collection of states that perpetuated the logic of the war's worst horrors (see Agamben, 1998). It is, rather, that the signs of state and nation, connected by the sign of self-determination, survived the war but evolved to become accessible to non-Europeans while resisting meaningful articulation. Sacrificing meaning was the cost of avoiding brutality. This evolution is apparent in the further elaboration of international society as an explicit object as well as in the rules and practices designated as 'self-determination'.

Perhaps the most important aspects of international society's post-war elaboration were the erection of the United Nations and decolonization. The UN was important for three reasons. First, it lent existing international society a symbolically efficient signifier for itself. The various and diverse state signifiers, constituted and related by rules, were no longer merely tokens of a type, but represented as members of a 'universal' organization. It was universal in scope, in principle prepared to integrate any potential member whose status was more or less a matter of consensus. Of course, lack of consensus also informed what universality could mean, such that it was yet quite restrictive and conservative, as will be described below. It was also functionally universal. Although the League included provisions for certain rights and had included the Committee of Experts for the Progressive Codification of International Law, these were still basically embedded in a modern Vattelien system. The UN, however, included such institutions as the Economic and Social Council (ECOSOC) and the International Law Commission (ILC), the former directly in its charter, which both expanded the functional scope of the organization well beyond any predecessor as well as added legislation and associated preparatory work explicitly to its remit. A vast and diverse array of administrative organs has joined the UN's organizational structure since, each with its own area of functional

competence where it produces signs and relations. In the simulation system, where ever more signs are required to maintain the hyperreality of international society, these new functions helped to generate and sort them in relation to each other.

The second aspect of the UN that made it an important object in late-modern international society is the sheer quantity of signs it generates. Although the previous orders had seen transient, though sometimes extensive, meetings for the purpose of pan-social legislation, like the Council of Constance and the Conference of Berlin, the UN is unmatched in the quantity of rules it produces and processes. Some apply internally and establish and maintain dozens of commissions, committees, specialized agencies in addition to the principal bodies established in the Charter, each of which produces reams of further rules and official representations. Others apply between members, which is to say that the UN collects and substantiates the signifiers of statehood on which it rests. To illustrate, in the first three and a half decades of the UN treaty series, it registered treaties at a rate of nearly one per day, and in the subsequent three and half decades, this rate nearly quadrupled ("United Nations Treaty Series," 2008). The UN General Assembly (UNGA) resolved to continue the League's project of codifying international law, but also to develop it, and this priority was set in its first session. The UN is a prime locus of signification and source of hardly distinguishable differentiations.

The third quality of the UN that contributes to the grammar of simulation is the degree to which membership is an adjunct signifier of statehood. This was not necessarily a deliberate product of the UN, and its charter does indeed describe the status and rules of acquiring membership and dealing with non-members. And when explicit criteria for statehood are invoked in jurisprudential discourse, the Montevideo criteria continue to be the most prominent and frequently invoked (Crawford, 2007). Nonetheless, membership in the UN is often related as a census of international society in official, popular and academic discourse. The status of Taiwan's membership relative to the People's Republic of China or of the status of Palestine relative to any other state of less controversial status are only contentious questions because that membership signifies more than mere club benefits and dues. Rather, UN membership is in many cases read as an implicit fifth criterion in

addition to the Montevideo criteria and whatever less principled political considerations apply (C. Weber, 1995).

Because of these features, the discourse in and around the UN is an excellent source to read the evolution of statehood, nationality and self-determination. Another reason is the UN's implication in the process and representation of decolonization, which is a discourse in which the simulation of international society through self-determination was most prominent in the post-war period. Whereas self-determination was an implicit principle in the production system to bind the newly erected nations to the states that were to signify them in international society and a vague principle of very limited scope during the interwar years, it enjoyed a considerable promotion in status following the Second World War. Indeed, Nanda (1981b) called it an 'established rule of customary international law' (259) in the context of decolonization. However, he also noted that the wide acceptance of its integration into the system of international law is not reflected in a broad consensus as to what that rule entails. Emerson accorded it a similar status in the grammar of international law, while also noting about its signified, that "all commentators on self-determination have pointed out that neither 'people' nor 'nation' has any generally accepted meaning which can be applied to the diverse world of political and social reality" (462). Therefore, it is necessary to read applications and further attempts at denoting it.

Self-determination finds a place already in the UN Charter. Chapter 11, the *Declaration Regarding Non-Self-Governing Territories* includes two articles guaranteeing the rights of inhabitants of 'territories whose peoples have not yet attained a full measure of self-government', including standard provisions like protection from abuse as well as helping them to develop self-government and to realize their political aspirations. This guarantee was lent some further precision in the first session of the UNGA, which produced a resolution that reaffirmed the obligation of those who governed the non-self-governing territories to report to the Secretary General and listed 74 territories so designated, ranging from Alaska and the Congo to Pitcairn Islands and Brunei (UNGA, 1946). This document makes two interesting and fateful moves. First, the resolution explicitly stresses the value of the non-self-

governing *territories* in meeting the objectives of chapter 11, while the information to be transmitted is about non-self-governing *peoples*, denoting the former as a source of activity and the latter as the object acted upon. Even before these territories had achieved statehood, the proto-states were being given priority over the peoples who would presumably be the entity capable of action and possessed of purposes and needs. Second, the resolution provided a limited catalogue. Although the Soviet Union and China, for example, were members, there was no mention of Yakutsk or Xinjiang. Late modern international society's limits and lack of teleology were being encoded early.

The rule committing the governing authorities to report was reiterated in 1948, albeit in a resolution strangely titled *Cessation of the transmission of information under Article 73e of the Charter* (UNGA, 1948), before the UNGA established a commission to report on promoting self-government in 1950 (UNGA, 1950a). Further, the newly established Human Rights Commission was tasked with drafting an International Covenant on Human Rights with explicit emphasis on 'ways and means which would ensure the right of peoples and nations to self-determination' (UNGA, 1950b). This resulted in the *International Covenant on Economic, Social and Cultural Rights* sixteen years later. The first right to be listed directly following the preamble is that 'All peoples have the right to self-determination. By virtue of that right they freely determine their political status...' and that 'The States Parties the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right'. Although this was a particularly robust statement of the rule in a 'covenant', which carries somewhat more symbolic efficiency than a mere UNGA declaration, the formulation was a verbatim recapitulation of the second point in the *Declaration on the granting of independence to colonial countries and peoples* (UNGA, 1960), which appeared in 1960, and a similar clause in the *Consideration of Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations* from 1963 (UNGA, 1963).

The rule's connotation became increasingly emphatic, as evidenced by the 1980 document on the *Importance of the Universal Realization of the Right of Peoples to Self-*

Determination and of the Speedy Granting of Independence to Colonial Countries and Peoples for the Effective Guarantee and Observance of Human Rights (UNGA, 1980). The document yields a rare instance of the UNGA describing itself as 'indignant' in the preamble. Further, 'armed struggle' was explicitly included as a means to achieve self-determination and liberation from foreign domination. But when it comes to naming the peoples who were to be liberated, only the 'peoples of Africa' and the 'Palestinian people' are so designated. Otherwise, the focus remained bound to territories, like Namibia, Mayotte, southern and South Africa, the Middle East and so on. Even when nationality was most vehemently presented as the grounds for statehood, the state as the signifier generally had priority, even when the nation, i.e. the people, was actual and the state only potential.

Before turning to the connections of this rule to others in the system of UN discourse and international law in general, it should be noted that the principle of self-determination was not strictly an artefact of the UN discourse. Rather, it had become a current and broadly invoked sign of the international public legal order. For example, it was also invoked in the Helsinki Final Act of 1975, the *African Charter of Human and Peoples Rights* of 1981, the *Charter of Paris for a New Europe* of 1991, and the *Vienna Declaration and Program of Action* of 1993 (Barnsley & Bleiker, 2008). Thus, it was hardly a particular interest of a radical UNGA faction or fixation of UNGA discourse.

For all the emphasis on self-determination as a rule, implying that states and international society should be malleable in order to accommodate the nations, there was also considerable signification in the opposite direction. For example, while §2 of the *Declaration on the granting of independence to colonial countries and peoples* from 1960 reiterates that all peoples have the right to self-determination and to determine their political status, §6 states that any attempt to disrupt national unity or a state's territorial integrity in whole or in part is incompatible with the Charter (UNGA, 1960). The 1974 *Definition of Aggression* is similarly contradictory. On the one hand, it provides an extensive list of acts that could be considered aggression, all of which apply between existing states. On the other hand, article 7 states that nothing in the Definition should be read to prejudice the right to self-determination and of peoples

to struggle against alien domination or the ability of other states to help them in that pursuit (UNGA, 1974). It is also fairly well-established legal opinion that the right of self-determination does not constitute a right to secede (Emerson, 1971; Klabbers, 2006; Nanda, 1981a). U Thant doubted openly whether the UN would ever recognize secession as legal, and he expressed this doubt in the context of Biafra, linking it directly to the question of self-determination (Emerson, 1971).

Of course, the question of self-determination and statehood is not restricted to the context of post-war decolonization, nor has it fallen into the completed storylines in the narrative of international society. It is very much alive. Taiwan, also known as the Republic of China (ROC), resorts to bidding wars for recognition in the form of maintaining diplomatic relations, and its rival is the mainland People's Republic of China (PRC). As the PRC has increased its ability to signify itself through such payments and other signifiers of membership in international society, the ROC has been priced out of the market such that only micronations in the south Pacific or the Caribbean offer an affordable prospect of diplomatic relations (Atkinson, 2010; W. Smith, 2013). Taiwan, though it easily fulfils the Montevideo criteria in formal terms, is forced to game the simulation by buying evidence of its ability to maintain relations with (other?) states. But hyperreality need not and rarely does resort to the vulgarity of commercializing signification. Rules are signs, and sign value can work at the level of rules alone.

Further instances of the simulation of international society, in which the structure of existing signs determines what signifiers are possible and in which the value of those signs is entirely endogenous to the structure without recourse to commerce, abound. The so-called 'Vatican option' applied to Palestine in the context of the UN is a sterling example of hyperreality in international society. Frustrated with its interminably indeterminate status, the Palestinian government sought UN membership in 2011 in order to obtain full legal subjectivity in international law, which is to say access to the International Criminal Court (ICC) and the International Court of Justice (ICJ) (Abbas, 2011). The UNGA upgraded Palestine from its former status as an observer entity to that of an observer *state*, which would seem to imply that it would have access to the ICC at the discretion of the Office of the Prosecutor.

Palestine has in fact sought this access, despite having been enjoined not to use it, though without endorsement by the Security Council it will probably not have access to the ICJ (Cerone, 2011; Elgindy, 2011). Article 35 of the ICJ Statute does provide non-member states potential access and even considers how the court would collect fees in isolated instances, but this route is unlikely to be open in fact (Cerone, 2012). A system of symbolic exchange value would make the rules superfluous, and one based on use value would bind them, but in a simulation based on sign value they are neither so implicit and incontrovertible as to be unnecessary, nor bound by a supreme sign. They persist, they are efficient, but they are without meaning.

Similar instances showing the hyperreality of any consistent statehood criteria abound. Somalia has lacked a government or the ability to enter into relations with other states for over two decades, during which four secessions have ruptured any affective or institutional unity of the 'state', each of which pertains to an entity at least as state-like as that included in the representation of international society but without inclusion in the simulation. One of these, Somaliland, fulfils the Montevideo criteria better than whatever passes for 'Somalia', and its neighbours Yemen and Ethiopia treat it as they would a state for many purposes (Eggers, 2007). It is as real as any state, but it is not part of the hyperreality of international society because the other signs in that hyperreality do not refer to it. One could examine further instances of secessionist proto-states, like Kurdistan, Transnistria, Tibet, Western Sahara and others, that are not integrated into the hyperreal international society despite having active and vocal 'nations' with many trappings of statehood, in contrast to others, like Kosovo, East Timor, Slovakia, South Sudan and other recent state products of secession, that often lack the rudiments of statehood or even a self-conscious nation to signify and have yet been integrated into the simulation. The successful latter instances of secession reinforce the normative and semiotic connection between a state and nation, reproducing the notion that the state is a signifier for a nation in law and right, even as the process of fragmentation weakens the state's symbolic efficiency. On the other hand, the failed former instances of secession strengthen the symbolic efficiency of the state as a sign worth appropriating, while their failure reveals the connection between signifier and

signified to be tenuous, contrived, and simulated, maintained by a grammar and producing objects beyond any subject.

These contradictory signs indicate that before the subject, the nation or the state, international society has priority. External sovereignty, referring to the quality of a state as being one token of a paramount type, has priority over internal sovereignty, referring to the supremacy of the state's internal legal institutions. Popular sovereignty, which would come from those the state ostensibly represents and coordinates, is empty and serves primarily to lend the state as external sovereign and the resulting international society symbolic efficiency. Indeed, this emptiness is very possibly a necessary feature of international society as a system that is ostensibly pluralist but based on formal uniformity and inescapable universality. To the extent that pluralism is a value, or at least a symbolically efficient sign, and the state is symbolically efficient enough that most subjects are exclusively loyal to that signifier in that system, there is a contradiction that must not be subject to conscious examination (Ewin, 2003). The efficacy of the simulation is predicated on a suspension of disbelief. These signs of the state and the nation can only be symbolically efficient, and they are, if subjects already accept their necessity and commit to be loyal to the simulation, and they do. Demilitarized zones like those in Cyprus and Korea are spaces where the exclusivity of statehood creates a zone where statehood excludes itself, have become tourist attractions that reveal the spectacular aspects of the simulation that are generally obscure in their more quotidian manifestations. The spectacle is the plural loyalties that are all the same, reflecting the simulation back on itself. Contradictions, or moments when reality disjoins from hyperreality, are dissolved through an overweening commitment to the simulation, which has already eclipsed reality and subjectivity through proliferate and ubiquitous signification, which, because of its excess, can no longer contain meaning.

Bounding the sea through boundless regulation

The shift from a production to a simulation system in the case of the territorial sea parallels the case of nationality as the basis for statehood. In the latter instance, the seeming discreteness of functionally identical states increasingly yielded to a

singular, universal simulation marked by increasingly arcane rules of status and relation that prevent deviation by assimilating anomalies into the one system of signification. Similarly, the territorial sea of the production period, which was maintained by the false equivalence of military compulsion and an arbitrarily fixed distance and eventually dissipated into a pat and simple uniformity, shifted in the simulation period to a hyper-regulated question characterized by a diverse array of statuses and relations, very little agreement on their implications despite universal agreement on the realness of their status and the reality they conjure. As above, the profusion of signs inhibits signification. The value of rules becomes a matter of assertion, and the assertions are contained in other rules. The rules of late modern littoral sovereignty are so extensive that they replace the unboundable unity of the oceans with the hyperreality of discrete maritime zones that leave no surface water outside the purview of international society.

The most conspicuous and dramatic indicator of sign value's dominance in the case of maritime territoriality is the third UN Convention on the Law of the Sea (UNCLOS III).¹²⁵ The towering status of UNCLOS III is a result, firstly, of its span, covering 320 articles, 17 parts and 9 annexes over 200 pages and was the culmination of 4 decades of work that involved thousands of diplomats (Logue, 1982; United Nations, 1994). The second reason for the status of UNCLOS is the status accorded to it by international jurists, having been hailed variously as 'the largest and most complex international negotiation ever held', 'a Constitution for the Oceans,' 'a world order treaty' and 'one of the seven pillars of international law' (qtd. in Prows, 2007). Few international legal documents attract 167 ratifications, so UNCLOS is as worthy of this effusive language as any other international legal document.¹²⁶ UNCLOS III is a startling mass of rules, and it is taken to be a shining example of international society convening to regulate a matter of common concern.

¹²⁵ Unless otherwise indicated, 'UNCLOS' denotes either the entire process of regulating international maritime law in the context of all three UN Conventions on the Law of the Sea or UNCLOS III, the main, cumulative treaty to emerge out of these conventions.

¹²⁶ Some might dispute this total, as the statehood of some ratifying parties is contested, including the latest 'State of Palestine', which ratified the treaty in early 2015. I defer to the UN for the count (United Nations, 2015), and it should be clear from the thrust of the book that I am not attempting to reify *any* 'state'.

To demonstrate the hyperreality of the legal territorialization of the oceans in late modernity, I will consider some of the perverse aspects of process leading to the ultimate UNCLOS document as well as its content relating to the projection of statehood over (and under ... and above) the oceans. This discussion will cover such arcana as the geometry of baselines; the typology of islands, rocks, low-tide elevations, and artificial islands; the insistence upon unanimity as a procedural necessity producing a document about whose content almost no one agreed except in condemning its shortcomings; and the hair-splitting of sovereignty into an infinitesimally divisible quality through such various and uniformly invisible zones as the territorial sea, the continental shelf, the contiguous zone and the exclusive economic zone (EEZ). But finding absurdity and meaninglessness in late modern legal documents is neither difficult nor surprising, so I will conclude this section by examining a small sample of UNCLOS's perverse effects as they present themselves in the South China Sea.

Before turning to the hyperreal world described synchronically in a voluminous legal text, it is important to consider its antecedents. Sign value came to dominate as exchange value eroded, which was a process rather than an instantaneous event. Once littoral sovereignty had been rendered standard and strictly notional, making it infinitely reproducible, it also became detached from a reality principle and susceptible to superfluous signification and grotesque extension. This came in the form of the 1930 Hague Conference, which initiated a process of relentless and ostensibly universal legislative activity, and of a series escalating claims to maritime sovereignty extending to indeterminate depths and breadths of hundreds of miles. UNCLOS was intended as a reasonable answer to the hysteria of territorial acquisition by decree, but instead of regulating the hysteria, it regularized it.

Harbingers of a hyperreal sea

The hyperreal sophistry of UNCLOS began with good intentions. Although the territorial sea regime of the 19th century was conventional, having the form of a collective, arbitrary fiat, many jurists in the early 20th century held it to exemplify a doctrine of *res nullius*. That is, it was a rule that reified power, rather than merely reflecting the imperative of power. Their interpretation was likely a reaction to the

horrors of the First World War and the assumption that the world that had produced those horrors had to – and could – be replaced wholesale. For example, in 1925 the *Institut de Droit International* declared the existing regime to be based on a negative conception of liberty, whereas international society had progressed to a state based on the positive conception of solidarity (League of Nations, 1926). The League of Nations' Committee of Experts similarly recommended splitting the territorial sea into two zones, including one zone of territorial sovereign rights that the coastal state would enjoy and a second of administrative duties for which the coastal state would be responsible (League of Nations, 1926). This recalls the premodern division of maritime sovereignty into zones of *dominium* and *imperium*.

In 1930, a conference did indeed convene in The Hague to devise a general consensus rule about the breadth and nature of the territorial sea. Representatives of 38 states were in attendance, and all but eight of these parties claimed three miles (Arruda, 1988), so there was certainly a near-consensus breadth to guide negotiations. Aside from limited points of agreement, like an early consensus and multilateral definition of innocent passage, the conference yielded very little in the way of common rules (Clingan, 1983). Several reasons for its failure have been suggested. Heinzen (1959) blames a few states, notably the United Kingdom, for refusing to accept exceptions even with long historical pedigrees, such as the Scandinavians' claim to four miles, which reflects their long-standing use of a single *Scandinavian* league. Pardo (1984) sees the concept of straight baselines, which the Norwegians had innovated to simplify the relief of their coastline, and the various sets of rights states claimed in contiguous zones to be the points that doomed consensus.¹²⁷ Finally, Swartztauber (1970) takes the orthodox position that the conference's overall approach fundamentally misunderstood contemporary international law, seeking to legislate new terms rather than codify existing understandings.

None of the causes offered for the conference's failure, however, is relevant to the current analysis because they all depict the failure in terms of flawed strategies and

¹²⁷ The 'baseline' is the line from which the extent of a band of maritime jurisdiction is measured, which can vary considerably, for example, depending on whether one takes the high or low tide as the indicator of the coastline or a certain depth, and so on. 'Straight baselines' discount gaps in the coastline, like the water between archipelagic islands or, as in Norway's case, fjords. I discuss them in greater detail in the context of UNCLOS III below.

miscalculations. The question is not how some state or representative understood international society or tried to act upon it. Indeed, given that states cannot exist without international society, the syntax of the question collapses. The question, rather, is what the process of the conference reveals about the character of international society at the dawn of the simulation period.

Three aspects of the simulation in particular arose with the conference and would only become more prominent in UNCLOS. First, making the rules that make international society was becoming a 'multilateral' concern. 'Multilateral' is, however, a questionable adjective because it forces the conclusion that representatives of multiple states can also represent multiple positions on an issue, that international society admits of internal multiplicity. The conference could also be intelligibly read as a unilateral affair in that all participants were committed to the universality of international society, of their capacity to set rules for humanity in that forum, and of that the network of existing rules would grant their legislation both validity and durability. Second, the conference demonstrated a preference for grounding rules in the variable idiom of international law, where elements can be altered by declaratory acts like those the conference itself was seeking to produce rather than on the basis of history or an external, invariable reality principle. As discussed already, history is a narrative phenomenon, and as such it can be altered and adapted to current imperatives, but this kind of adaptation often depends on costly investments in artefacts and institutions of material culture to cement the new narrative. Legislation, in contrast, is relatively cheap in that one can change a rule or change the rules that give the rule in questioning meaning. Law is words, and talk is cheap. Substantiating the claim that the Scandinavian league is an unhistorical measure is difficult, but declaring it illegal is comparatively easy. Finally, the susceptibility of the objects of law to whim was increasing. The best example of this is the debate over the contiguous zone. Whereas the modern territorial sea had some historical antecedents, like the Mediterranean rule of arcs centred around the cannons of coastal fortresses and the continuous bands observed in Scandinavia, the idea of a contiguous zone was cut from whole cloth. There had been some suggestion even during the First World War that some administrative authority beyond the territorial sea for 'ordinary administrative matters' would be beneficial (Cole, 1916, p.

89), which the League's Committee of Experts recapitulated, as described above. The self-arrogated ability to declare legislation and the discount of history's normative fetters together allowed the conference to call new signifiers into existence and decide upon their proper place in the system. These changes increased the potential for semiotic innovation dramatically.

Although the Hague conference did make general legislation by multilateral declaration thinkable in reference to the territorial sea, there would be a final bout of signification according to the production logic before multilateral declaration became the only admissible mode of instantiating international society. This reversion to the logic of interest began in 1945, when American President Truman proclaimed that all resources on the seabed and in the subsoil of the continental shelf belong to the coastal state, given that the continental shelf is merely an extension of that state's landmass (Truman, 1945). This would, of course, invite dispute as to *which* state's landmass extends onto what parts of the continental shelf as well as the more fundamental problem as to *what* a continental shelf *is*, about which there is on-going political and geological debate.¹²⁸ Truman's proclamation indicated that such disputes were to be settled bilaterally according to 'equitable principles'. Equality, however, is a difficult principle to apply, given that some coastlines have both rich seas and virtually no continental shelf.

While the newly formed International Law Commission was beginning to study the territorial sea and draft a convention, Juan Peron, the new Argentinian President reacted to Truman's proclamation in 1946 by claiming sovereignty over the continental shelf and all water above it. The Mexican government followed suit and in 1947 claimed all rights to the Mexican continental shelf as well as the intention to regulate fishing on what was, at the time, still considered the high seas above it (Campbell, 1958). In 1948 the Chilean and Peruvian governments emulated the American and Mexican claims, though the American State Department objected that the new South American claims exceeded what contemporary international law would permit (Campbell, 1958). These developments demonstrate that the Vattelian

¹²⁸ For example, some have suggested that, since the continental shelf is, if anything, an extension of the *continental* landmass, then landlocked states should also benefit from the resources it contains. See Prows, (2007) fn.12.

interest was motivating competitive extensions of claims, but neither the production system's logic of standardization nor the simulated uniformity of late modern multilateralism were tempering the escalating claims to maritime sovereignty. And the most grievous escalations were yet to come.

Once the continental shelf had been introduced as a signified subsumed under international law, it apparently became easier to expand the range of signifieds the law could integrate under the signifier of legality. The advent of nuclear submarines, which could remain submerged for extended periods and serve as very remote launching platforms for nuclear warheads, represented a hyper-cannon whose range and placement was virtually without limit and corroded even the simulated sovereignty-through-compulsion logic of the waning production order. There is record of American diplomats and state jurists at odds about the ambivalent consequences of this technology in terms of American interests at sea, because broad claims of maritime sovereignty would hopefully deter Soviet submarines from approaching American coasts, but a narrow general limit would allow American submarines to near Soviet coasts ("International Law: The Three-Mile Limit," 05.05.1958). In addition to the tactics of nuclear weapons coming to shape law, geology was also being introduced. This was apparent, first, in that the claim contained in Truman's proclamation about the continental shelf being an extension of a state's terrestrial land mass was based on unsettled geological terminology and was disconnected from the existing web of meanings in international law. Second, the introduction of geology into the language of law put those with unfortunate coastal geological formations at a disadvantage. The western coast of South America, for example, is a subduction zone,¹²⁹ where the water reaches a great depth at little remove from the shore, leaving coastal states with virtually no continental shelf to speak of. As a result, the Chilean and Peruvian governments, this time joined by the Ecuadorian government, revised their earlier claims in 1952, extending them in breadth to 200 miles and in scope to include exclusive sovereignty and jurisdiction (Campbell, 1958; Logue, 1982).

¹²⁹ A subduction zone is where one tectonic plate slides under an adjacent plate, which makes for tall and geologically active coastal land formations, like the Andes mountains, and scours anything resembling a continental shelf into the planet's mantle.

At this point, universal legislation through multilateral declarations returned, and with it the drive to simulation gained momentum. For example, the Organization of American States (OAS) convened a committee to mediate between the Andean claims, the American claims and the many opponents to both types of claim. The committee ruled, foreshadowing the UNCLOS solution, that, while economic rights can extend to 200 miles, sovereignty cannot. However, the Inter-American Council of Jurists, a standing legal advisory council in the OAS, cautioned that this distinction would constitute a new rule in international law and require an international convention (Campbell, 1958). Further, in March 1956, the Inter-American Conference met in Mexico to discuss the 'Conservation of Natural Resources: The Continental Shelf and Marine Waters,' which concluded both that the seabed and subsoil resources of the continental shelf appertain to the coastal state, and that there was simply too little consensus about the nature and extent of jurisdiction in adjacent waters (Campbell, 1958). This indicates that, when the pedigree of new legislation from a multilateral source was in doubt, the answer was not to reinforce the pedigree, whose indicators might be difficult to find or simply non-existent, but to further multilateralise the question.

The status of the sea was becoming detached from meaning. It was no longer an object in the normative cosmos or the cosmic order with a fixed and self-evident place. Nor was it subject to a single, consensus rule replicated among indefinitely many like units. The ability to declare rules was too tempting to be subject to the constraint of uniformity forever. So if there was to be a rule, it would have to be invented by the totality of units, which was increasingly becoming the principal source of rules, and the 'units' that resulted were ever less unitary. The whole was supervening ever more upon the parts. When sign value is the primary currency, the signs themselves are incidental to the simulation.

UNCLOS: delusion by consensus

UNCLOS clearly exemplifies how international society simulated itself while simultaneously hyperreifying the sea. The vastness of the document, the extent of the duration required to produce it, the hypocrisy of its legal constructs in light of the principles they ostensibly codify and the absurdity of how it represents the sea, a

single, borderless and illimitable body of water, constitute a particularly clear case of a legal simulation and reveal the extent to which the international society that produced UNCLOS is itself a simulation.

Although the proliferation of signs makes hyperreality inevitable in a manner akin to entropy, history initially offered an opportunity to codify late-modern convictions about maritime law in a document based only on exchange value. In 1956, a year before the first round of UNCLOS convened, the ILC submitted a draft convention on the law of the sea to the UNGA (International Law Commission, 1956a). This document was the result of nearly a decade of research and preparation within the ILC, it was informed by many prior conventions and meetings treating maritime sovereignty in the 19th and early 20th centuries, and many governments had already commented favourably on it and the 1951 draft that preceded it (International Law Commission, 1956b). The draft's content effectively updated the existing regime of customary law to accord with some new concerns that had arisen in the early and mid-20th century. For example, it limited claims to territorial sea to 12 miles, and though it allowed for a contiguous zone, as many since the First World War had suggested would help protect civilian property and enforce customs laws, the contiguous zone was also not to exceed 12 miles from the coast, making it an alternative to the territorial sea within that range rather than an addition to it. It also included provisions requiring parties to conserve the living resources of the sea, rules relating to underwater assets, like subsea cables, and an arbitrary, but measurable and standard, definition of the continental shelf as ending at 200 metres of depth. The ILC accomplished this within a span of 9 pages and 73 articles. While this may seem relatively enlightened, the rules contained in this draft also displayed many features of the production order: they were to be ratified by fiat; they were to apply to 'states' as pre-established entities with standardized properties; they reinforced the commodification of states as recognizable legal persons and acting subjects; the precise form of many of the rules, like the distance of 12 miles, was fairly arbitrary; and there was no original or reality principle to lend them meaning. Nonetheless, the 1956 ILC draft convention would have been typical of the production period and fell well short of simulation.

Instead of deferring to the preparatory work by the ILC, the first UNCLOS conference in 1957 adopted 4 separate but related conventions and an optional protocol, the Convention on the Territorial Sea and the Contiguous Zone, the Convention on the High Seas, the Convention on the Continental Shelf, the Convention on Fishing and Conservation of the Living Resources of the High Seas, and the Optional Protocol of Signature concerning the Compulsory Settlement of Disputes. The first indication of superfluous signification even in this first UNCLOS is that the documents of its output extend to 196 pages, though they cover effectively the same topics as the ILC draft convention covered in only 9. Despite the dramatic increase in the quantity of rules, there was no increase in clarity, only specificity.

One example of meaningless specification is at the core of the Convention on the Territorial Sea and the Contiguous Zone. This central document never specifies the actual *breadth* of the territorial sea. Articles 3-13 of that convention contain 25 paragraphs and comprise together a subsection titled 'Limits of the Territorial Sea', but at no point do they in fact limit the seaward extent of the territorial sea (United Nations, 1964b). This omission would be understandable had all the standardization of the production order corroded, which itself would have made the conclusion of a universal treaty on a topic about which there was no common agreement a questionable pursuit, but there was no such dispersion. In 1958 three quarters of all states, a group responsible for 87% of all shipping tonnage, claimed three miles, and only five states claimed more than the 12 miles the ILC draft convention would have allowed (Heinzen, 1959). A convergent, standard measure was available, a draft convention congenial to almost all existing claims was ready, but the rules prioritize phenomenologically uncontroversial questions, like what should count as an island or a bay, while omitting an answer to the central question from which many other more substantive rules, like who can do what where in the sea, follow.

The Convention on the Continental Shelf provides another clear example of legislation as simulation. The first article of this convention defines the continental shelf to an unlimited depth in the subsoil and seaward beyond the territorial sea 'to a depth of 200 metres, or beyond that limit, to where the depth of the superadjacent waters admits of the exploitation of the natural resources of said areas' (United

Nations, 1964a), which makes the state of current technology its only limit. Further, in a formulation that would have perplexed Vattel or any proponents of even Grotius's fictive cannons as a basis for maritime sovereignty, article 2 states that 'The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation'. Thus, the coastal state's property rights are provided by a mere technical possibility, even if it is unrealized or unknown to those enjoying the rights. This, then, constitutes an indefinite appropriation by fiat. Although the integration of the signified from the Truman proclamation and the ILC draft convention might have made this extension easier, the Convention on the Continental Shelf manages to create a virtually limitless entity unknown to customary law or geology.

UNCLOS I, as the 1958 version is known, fared poorly for a convention that was intended to be universal, and many reasons for this have been suggested. One is that it ignored the state of customary law and innovated too much (Heinzen, 1959). Arruda (1988) has suggested that the weakness of the Soviet navy prompted the Soviet delegation to lead a coalition of weaker states against the narrow bands favoured by the Americans and the British, and this simply divided international society. Logue (1982) saw in UNCLOS I a poorly veiled attempt by more powerful states to expropriate the richest parts of what had, until then, been considered *res communis* for themselves. This exclusivity became increasingly glaring as decolonization progressed, and the list of those excluded extended quickly and dramatically relative to those who profited from the 1958 arrangements. Further, the ICJ ruled in the North Sea Continental Shelf case that even signing the convention was insufficient for it to bind (ICJ, 1969), so the rules it contained actually applied to a small subset of international society that had signed and ratified or acceded to it, and that subset was shrinking relative to a growing total. However, it is perhaps the convention's greatest omission, the failure to define an extent of the territorial sea, that made the simulation implausible. After all, hyperreality is, by definition, *more* real than the reality it obscures, but an imaginary border dividing the sea must be somewhere in order to be imaginable. One can list any number of properties of a fence and convince others that it exists through the sheer mass of description, but unless this description also includes a *location*, which is an indispensable property of

any fence, it is likely to be recognized as a phantasm, a potential entity, rather than be accepted as an actual feature of reality.

Perhaps the best evidence for attributing the failure of UNCLOS I to its omission of defining the breadth of a territorial sea is that a second conference, UNCLOS II, was convened only two years after UNCLOS I. The second UN conference on the subject was intended to correct the principal defect of the first. According to Larson et al. (1995), 'The agenda of UNCLOS II was almost exclusively the breadth of the territorial sea' (288), and Schneider (1977) remarked similarly that 'UNCLOS II dealt solely and explicitly with the question of the limits of territorial waters' (150). However, despite including only one participant more than the 86 that had attended UNCLOS I and also working on a principle of 2/3 majority, UNCLOS II failed to produce a final articulation of the rule.

Despite failing in its main legislative purpose, UNCLOS II did indirectly produce a pregnant signifier with vast symbolic potential. The abortion of UNCLOS II reinforced the narrative that the law of the sea reflected the interests of the most powerful, and these powerful few were becoming relatively fewer as the process of decolonization expanded the ranks of international society. In the wake of its failure, preparatory work for a new conference began. In 1967, the Maltese Ambassador, Arvid Pardo, suggested in the course of this work that all water and resources further seaward than 12 miles or 200 m of depth to be declared 'the common heritage of mankind' (E. D. Brown, 1983). Logue (1982) considered this formulation to be of a kind with Grotius's early analysis of the status of the sea, in which all the seas were a common good and indivisible. Indeed, the common heritage formulation posits a society without inter-national divisions and a single narrative and genealogical strand uniting all its members, much like the Augustinian view of Christendom. It was directly opposed to the *res nullius* doctrine of the high seas that Selden had popularized and had persisted over most of the sea almost since the publication of *Mare Clausum* (E. D. Brown, 1983; Schneider, 1977). Given the expansion of international society's membership, at least in terms of state signs if not in empowered subjects, this formulation had the potential to corrode the residual

symbolic efficiency of the standard of civilization and to destabilize international society and the teleology of its normative entropy.

When the preparatory conference for UNCLOS III began in 1973, the common heritage formulation had become prominent and popular, though not universally accepted. Despite the preference of some, especially the Americans, for bands as narrow as possible (Wilder, 1991-1992), many features of the organization and procedural rules of the UNCLOS III conferences boded well for rules reflecting what the common heritage formulation signified. For example, it had been decided already in 1969 that a future law of the sea document should be agreed upon by consensus to prevent the selective and potentially discriminatory adoption that the previous majority voting and discrete treaties had allowed (de Soto, 1983).¹³⁰ Further, UNCLOS III appeared to be more inclusive by virtue of the fact that, whereas the first two UNCLOS conventions had only 86 and 87 participants, UNCLOS III nearly doubled these figures by including 165 state delegations as participants, 6 state and territorial delegations as observers, 8 liberation movements, 12 specialized agencies, 19 intergovernmental organizations, 43 nongovernmental organizations, and 19 other associations (Larson et al., 1995).¹³¹ Were pluralism and protections for minority voices able to ensure good legislation, and were international society a *real* community susceptible to even quasi-democratic procedures, UNCLOS III would have produced good rules and revolutionized international society for the better. But this parliamentary ideal was a chimera.

Before turning to some of the perverse consequences to which UNCLOS has led, a brief survey of its content and the *form* of its content is in order, and because this story began with the fairly limited concept of a territorial sea, the rules relating to littoral jurisdictional zones are a good start. The semantics of maritime sovereignty in the counterfeit order included three types of water: the high seas, limited and temporary neutral zones and regalia (sovereign property); two types of coast:

¹³⁰ The adherence to consensus was nearly universal, but the conference did agree in 1974 to resort to majority voting when consensus failed. In the event, voting was only used once in the course of negotiating UNCLOS III: on whether to accept the final draft (de Soto, 1983).

¹³¹ These numbers reflect participation at the closing sessions. Participation at the preparatory conference was somewhat less expansive, but still included 150 state delegations (Joyner & Martell, 1996).

sovereign property and *terra nullius*; and two kinds of power to be exercised: *dominium* and *imperium*. The production order added the consideration of whether the coast was inhabited and if so, whether the inhabitants were civilized enough for full inclusion in international society, but it also standardized the powers and types of water considerably. The beginning of the simulation period saw suggestions to effectively preserve the standardization achieved during the production period but to reintroduce *imperium* to some extent in the form of a contiguous zone. What came instead in the massive 1983 treaty were five kinds of maritime water, four additional kinds of littoral water, at least six kinds of coastal land and a complex corporate bureaucracy.¹³²

The types of maritime water included in the treaty are, at least, the territorial sea, the contiguous zone, the high seas, international straits and the exclusive economic zone (EEZ). The first of these, the territorial sea, is fairly straightforward. UNCLOS III, like UNCLOS I, gives the territorial sea nearly the same status as internal waters, and unlike UNCLOS II, it fixes the breadth of the territorial sea at no more than 12 miles from the 'baselines'. Weaker jurisdictional authority applies in the contiguous zone, which extends up to 12 miles from the outer limit of the territorial sea, but a kind of *imperium* still applies that allows coastal authorities to, for example, enforce customs and environmental laws. Thus, the contiguous zone is comparable to what the International Law Commission and UNCLOS I had anticipated. The simulation becomes clearer at the level of the EEZ, which extends an astounding 200 miles from the baseline, and includes the legal power to exploit resources as well as establish and regulate artificial islands (United Nations, 1994, pp. 418-420). Although artificial islands in the EEZ enjoy no territorial sea, contiguous zone or EEZ extension, they can enjoy a 'safety zone', which is like a miniature territorial sea of only 500 metres in breadth.¹³³ International straits refer to sea passages that cross the jurisdiction of a

¹³² I say 'at least' here and below because the status of some of the categories included in the treaty as newly simulated signs are disputable. For example, UNCLOS III includes provisions for landlocked states, which clearly makes 'landlocked' a relevant sign in the grammar of maritime sovereignty, but the treaty does not conjure it by declaratory fiat in the same way that it does with, say, 'low-tide elevations'.

¹³³ There is a rather unlikely interpretation of article 76(8) that would perhaps give the Commission on the Limits of the Continental Shelf the ability to add 200 miles to an EEZ for the sake of equitable geographical representation in reference to the continental shelf. The ambiguity and the relative

coastal state and in which (almost) all can pass through. The high seas are the residual category of water outside all the above jurisdictions in which those displaying a sign of nationality can navigate, fish, conduct research, lay pipelines and cables and even erect artificial islands. The condition is that all those on or under the high seas must display insignia to assign them to a single, particular national jurisdiction, the UN or the International Atomic Energy Agency (United Nations, 1994, p. 433). Finally, there are several types of bodies of water that derive from these, like bays, roadsteads, archipelagic waters, and internal waters.

Rather than examine the legal fantasies created in and by each legal status, I confine the discussion for reasons of space to three especially clear and conspicuous examples: baselines, the EEZ and 'the Area'.

The signifier of the 'baseline', the line from which the extent of the various littoral jurisdictions are drawn, in UNCLOS III bears little resemblance to the earlier and phenomenologically immediate territorial sea boundaries, like the range of eyesight. The most basic means of assessing the baseline is to equate it with the low water line of the coast (United Nations, 1994, p. 400).¹³⁴ However, the baselines along deeply indented coasts, as in Norway or Canada's Pacific coast, need not account for every indentation, so long as the 'general direction' and the low water line of the coast are preserved (United Nations, 1994, p. 401). These exceptions produce what are referred to as 'straight baselines'. Straight baselines are also subject to exceptions: they may deviate from the low water line provided there is a lighthouse or permanent structure protruding from the surface, when longstanding economic interests are at stake, when the deviation is recognized by longstanding custom (by other official bureaucracies). These exceptions are, in turn, subject to further exceptions: they become void if they limit access to a territorial sea or EEZ claimed by another state, and if they create any new internal waters, those internal waters will be subject to safe passage, making them more similar to a territorial sea than internal waters proper (United Nations, 1994, p. 401). Straight baselines may also be drawn across the mouth of a bay, provided the mouth is less than 24 nautical miles across, a

inarticulability of the question are in themselves indicators of simulation. For more on this problem, see Serdy (2008).

¹³⁴ A low water line is the line along the land that water just covers when the tide is at its lowest.

distance that corresponds to the extension of the territorial sea from each side (United Nations, 1994, p. 402), provided the bay meets the geometric criteria of bays listed in article 10, unless the bay is a 'historic bay', in which case the geometric criteria do not apply. Beyond coastal indentations, islands also play a role in assessing straight baselines. If there is a low tide elevation, which is an island, rock, sandbar, or similar protrusion that is submerged at high tide but above the surface of the water at low tide, within the territorial sea measured from the littoral baseline, its seaward low water line can be used as the baseline for the revised territorial sea (United Nations, 1994, p. 403). For atolls, the seaward low water line of the reef is the baseline (United Nations, 1994, p. 401). States comprising archipelagos can have straight baselines running from island to island so long as the ratio of water to land enclosed within those baselines does not exceed 9 to 1 and no more than 3% of the baselines extended with this rule exceed 100 miles while remaining shorter than the maximum length of 125 miles (United Nations, 1994, pp. 414-415). Finally, these methods of assessing baselines *can be combined* (United Nations, 1994, p. 403).

The meaningful apprehensibility of these rules stops with the equation of baselines to low water lines, in which a sensible and almost intuitive distinction between land and sea still obtains. From there, it becomes a simulation in that the world described by the rules bears no relation to the impression of the sea on a coast. Seals, fish and fishermen can all appreciate a distinction between land and water, but it is not clear that any can make sense of archipelagic land-to-water ratios nor the presence of low tide elevations within at most 12 miles from a coastal baseline. These significations are legal fictions, but their obscurantist attention to detail makes them seem more real than any phenomenological apprehension of a real sea or coastline.

Although the EEZ is also hyperreal in terms of its legal specification, its unreal absurdity is apparent primarily in how it distorts territorial geometry. Relative to the size of most countries, 200 miles is a long distance. In fact, EEZs cover about 40% of the 360 million square kilometres of ocean surface (VLIZ, 2014). Although coastal curvature can affect the calculation appreciably, the scale becomes clear when one considers that a single mile of straight coastline yields 200 square miles of EEZ, an area greater than the land area of many states, like the Seychelles, the Maldives,

Grenada or Barbados. It is also noteworthy that these examples are islands, as is typical of many small states.¹³⁵ Since the coastlines of islands are necessarily convex rather than straight, they gain disproportionately more EEZ than a state with a relatively straight coastline, like Namibia, and much more than those with concave coastlines, like Germany or Latvia. As a result, the land territory under French jurisdiction is only the 42nd largest and the attendant coastline is 33rd longest in international society, but due to its many island dependencies, the French EEZ is the second largest of all, just behind the American EEZ, even though the United States enjoys the 2nd longest coastline and the 4th largest land area (CIA, 2015; Sea Around Us Project, 2015; World Resource Institute, 2012). Small island states can enjoy even greater magnifications. Kiribati, for example, has a land area of only 811 square kilometres, but it enjoys an EEZ of 3 441 810 square kilometres, so the sea area to which it has exclusive economic rights is larger than its land jurisdiction by a factor of 4 243. That Kiribati enjoys virtually the same legal status as China and the United States is itself only imaginable in hyperreality, but the legal facticity of its EEZ makes this preposterous equivalence more apprehensible, though it remains absurd in itself. The legal status of the EEZ was also conjured from mere words. As late as 1976, there was very little consensus as to what kind of jurisdiction would apply in the EEZ. At that time it was referred to variously as ‘high seas’, a ‘zone of national jurisdiction’ or a zone *sui generis* (Clingan, 1983, p. 113). Before UNCLOS had even been opened for signature, however, the EEZ was already broadly considered to be an element of customary international law (Joyner & Martell, 1996). This status was not merely a matter of self-serving diplomatic opinion. Rather, the ICJ affirmed the ahistorical pedigree of the EEZ in its judgements on the Cases Concerning the Continental Shelf in 1982 and 1985 (ICJ, 1982, 1985). Unlike the judgment in the North Sea Continental Shelf Case in reference to UNCLOS I, much of UNCLOS III was broadly considered to be ‘instant custom’ and would thus be binding on non-parties. Instant custom effectively amounts to *opinio juris* without practice or, in other words, that states’ legal representatives believe something to be the case without evidence that it is in

¹³⁵ Many small and microstates are also landlocked, such as San Marino, Andorra, and Liechtenstein.

fact, which must constitute a mass hallucination. Indeed, a mass hallucination is an apt alternative description of hyperreal simulation.

The roughly 60% of the sea not covered by any national jurisdiction is known in and to UNCLOS III as 'The Area'. Even this name suggests the integration of the illimitable into the semiotic web of international society. Whereas the 'high seas' or the 'open ocean' seem to suggest a domain beyond any particular jurisdiction, 'The Area' with its capitalized orthography and definite article seem almost to have been conceived by marketing psychologists to evoke a limited, controllable domain. The similar illocutions have very different perlocutionary effects.

Despite the perlocutionary insinuation of international society, the formulations of the rules governing The Area are noteworthy for two reasons. First, although they reify states as coherent subjects, as one must expect in any recent treaty, they also explicitly include other kinds of corporate subjects. These include 'mankind', 'peoples' and 'countries'. Second, they introduce a third kind of property into the semiotics of maritime law. Whereas the legal discourse treated maritime objects as either *res nullius*, potentially belonging to anyone and subject to claim, or *res communis*, not belonging to anyone and immune to claim, The Area is depicted as *res publica*, in that it explicitly belongs to all and special measures are included to ensure that all actually benefit from it (Prows, 2007). Several articles attest to these points: art. 1 defines The Area as lying outside national jurisdiction; art. 136 invokes Pardo's portentous phrase and declares it to be 'the common heritage of mankind'; art. 137 forbids states from claiming or exercising sovereignty over it, places it and the resources it contains under the purview of 'The Authority' (who else?) and excludes its resources from 'alienation'; art. 140 prescribes that activities in The Area are to benefit mankind as a whole, regardless of geographical location and that developing States *and peoples* are to receive special consideration, such as redistribution of gains through The Authority; art. 144 foresees measures to facilitate the transfer of technology from developed to developing states so that the latter can increase their benefit from The Area; art. 148 makes special allowances for the special interests and needs of developing and landlocked states; and art. 149 applies the formulation 'for the common benefit of mankind as a whole' to any archaeological or historical

treasures found in The Area with special consideration given to the States *or countries* of origin, of cultural origin and of historical and archaeological origin. As noble as these provisions appear, however, the world they describe is not real. The words and rules signify each other more than states of the world.

The Area and the egalitarian principles that were supposed to transcend the confines of international society's signs did not and were not designed to be real. The first point to note is that almost all worthwhile maritime resources were already contained in the EEZs. In fact, representatives of landlocked and geographically disadvantaged states had already stopped campaigning for a meaningful share in 1976, because it had already become clear at that early stage that the EEZ rules were irrevocably going to form part of the final document, and they benefitted a small subset of states. More precisely, only 10 states were to gain 53% of the total EEZs, and only one of these was a less developed country (Logue, 1982). Six of the top seven EEZ beneficiaries were high-income states. The contradiction to the principles of the Area articles becomes clear when one considers that The Area contains mostly manganese nodules at great depth, which at the time could not have been profitably harvested, but the sea's greatest wealth, like fish and hydrocarbons, are heavily concentrated within EEZs (Joyner & Martell, 1996). Second, even the peoples of small island states, who generally enjoy disproportionately large EEZs suffer from two substantial disadvantages. First, UNCLOS makes assessing the boundary between their EEZs and continental shelves and The Area vague and costly, putting them at a disadvantage relative to wealthier states. Second, it explicitly prevents them from patenting seabed organisms and thereby contradicting the terms of the later Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement (Prows, 2007). Third, the emphasis on scientific assessment and leveraging technology creates a high barrier to entry in that state bureaucracies need sophisticated technology and considerable scientific competence even to assess what sorts of claims would be in their interest (Pardo, 1984).

The Area, the common heritage of mankind, originated as a corrective symbol against the fact that UNCLOS I was biased in favour of a few states, and many states entered international society immediately following UNCLOS I and were excluded

from its considerations as a result. UNCLOS III had the potential to end the production order's legacy of Vattelian states pursuing their own interests at the expense of others. This would have required qualitatively better rules than were to be found in UNCLOS I, and they would have had to constitute different signs, not merely states. Instead of better rules, UNCLOS III provided merely more. It is a regime of hyper-signification, in which the overwhelming sophistication and specificity of the rules seems to describe a particular, new type of reality while removing that very reality even further from reach.

Maritime rock opera

Although there is no reality beyond ascribed meaning, and textual representation has as much capacity to contain and transmit meaning as any other, the reality described in the text of UNCLOS could be dismissed as fiction rather than hyperreality. For example, the Briand-Kellogg pact of 1928, which was to eliminate war as a policy instrument, never achieved the symbolic efficiency required to become a reality, hyper or otherwise, and the text of UNCLOS could be similarly negligible. However, the international society and attendant rules regarding maritime territoriality elaborated in UNCLOS do inform momentous decisions despite their lack of reality. To demonstrate this, I will now consider a particularly clear example of deluded behaviour on the basis of UNCLOS in the South China Sea.¹³⁶

The first point to note is that UNCLOS conjures four different kinds of offshore geographic features to which different potential jurisdictions pertain.¹³⁷ According to art. 121, islands are naturally occurring areas of land that are surrounded by water, that penetrate the surface even at high tide and can support human habitation or 'an economic life of their own,' and they enjoy the same status as any other land would,

¹³⁶ This example is particularly glaring, but it is by no means unique. The Arctic Ocean, the Sea of Japan and others present similar dramas. The South China Sea is also helpful because it demonstrates the extent to which even non-Europeans identify with and live in the simulation of international society.

¹³⁷ 'Offshore' here is indeed confusing, because if islands, rocks, low-tide elevations and so forth are considered 'offshore', it is no clear what 'onshore' would denote, especially in the case of national territories that consist entirely of islands, like New Zealand, Iceland, the Philippines or Indonesia. Such perplexing details are presumably integrated into the simulation, and once one accepts the totality of the simulation, they seem intuitively intelligible.

including a territorial sea, a contiguous zone, a continental shelf, and an EEZ (United Nations, 1994, p. 442). Rocks are similar, but they are so small or resource-poor that they cannot support human habitation or 'an economic life,' and enjoy a territorial sea but not an EEZ nor a continental shelf. Low-tide elevations are submerged at high tide, and they can be used as a baseline marker such that the baseline can be measured from their seaward low-tide lines, but they have no territorial sea of their own if not at least partly falling within a coastal territorial sea.¹³⁸ The fourth kind are the artificial islands discussed above, which enjoy only a 'safety zone' of 500 metres in breadth as long as they are in a coastal EEZ, but otherwise enjoy no further maritime jurisdiction.

The set of offshore geographical features is important because the governments of China, Taiwan, Vietnam, the Philippines, Brunei Darussalam, Malaysia variously claim jurisdiction and attendant benefits over the Pratas Islands, the Paracel Islands, the Macclesfield Bank, the Scarborough Shoal and the Spratly Islands.¹³⁹ To give an idea of the scale of these formations, the area of the 13 largest of the 140 Spratly islets is less than 1.7 km², the largest of the Paracel islands is only 2.1 km², the Scarborough Shoal is effectively a reef with a substantial lagoon, the Macclesfield Bank is a submerged atoll, and the three Pratas islets consist of about 2.4 km² in total, of which about a quarter is lagoon (Beckman, 2013). The first point to note, then, is the ratio of sea area gained by having such a formation deemed an island. To take a relatively large example, like the 2.1 km² Paracel, whoever manages to claim it successfully and have it be deemed an island can anticipate over 500 km² of territorial sea and over 125 000 km² of EEZ. Thus, a piece of land about the size of the Champ de Mars in Paris can yield the resources in an area roughly the size of Greece.

Strangely, however, many claimants are obscure about how they would like to classify the formations, though some claims appear quite clear. For example, the Chinese government commissioned the erection of a Chinese prefecture-level city, Sansha, on the largest Paracel islet in 2012, which would seem to indicate a

¹³⁸ The baseline cannot connect several low-tide elevations unless they host permanent structures, like lighthouses.

¹³⁹ For a map of the area and a list of alternative designations for these formations, see Fislser Damrosch and Oxman (2013).

considerable commitment to a Chinese claim as well as to the status of an island (Beckman, 2013), and the China National Offshore Oil Corporation opened bidding on disputed areas that China claimed (Shicun, 2013). Similarly, the Philippine government has enacted at least three pieces of domestic legislation to assert its claims in the area, and the Vietnamese government approved its own 'Law of the Sea for Vietnam' in 2012 (Shicun, 2013). One would expect these parties to apply similar rules in their engagement with international law and society. Oddly, however, many parties concerned have been reticent in their submissions to the bureaucratic institution UNCLOS created to determine boundary rules on the basis of geography, the Commission on the Limits of the Continental Shelf (CLCS). Many of those wanting to register a claim with the CLCS faced a May 2009 deadline, and while the deadline was extended, 44 of the 95 submissions to the CLCS received by May 2009 arrived just days before the deadline (Suarez, 2010). Among these late submissions, about a tenth have related to the South China Sea, and they are a sparse and confusing collection given the extent and intensity of dispute. There are two Vietnamese submissions, one for the north boundary and one joint Malaysian-Vietnamese submission for the southern boundary; only a partial Philippine submission; only a preliminary Chinese submission; and the CLCS received only a submission of 'preliminary information' from the Bruneian government (Beckman & Davenport, 2010). The CLCS rules of procedure make this all the more surprising, there seems to be little to lose in making bold claims to the CLCS: its rules of procedure preclude it from pronouncing on disputed cases (Lee, 2014; Suarez, 2010).

Another aspect of the South China Sea disputes that compounds confusion is the vehemence with which these parties press their claims outside of the legal context. Threats of violence and displays of military force began already in the 1970s parallel to the UNCLOS negotiations and mere months after the first oil crisis (Song & Tønnesson, 2013). Typical activities include warships of one party chasing or dragging fishing boats flying the flag of another, buzzing each other's airplanes in contested airspace, sometimes leading to collisions, competitive weapons acquisition, erecting airfields, and so on (Kraska, 2011; Rahman & Tsamenyi, 2010). If international society works as advertised, and there are rules and institutions that exist to and can resolve such conflicts among states as pre-existing actors, then such

physical threats and escalations should not occur. Another interpretation is that these rules are possessed of sign value, and neither their content nor their proliferation bears consequences for the activities of the fishermen or the pilots beyond reaffirming the order that can act arbitrarily upon them. Whatever the hydrographers and geologists of the CLCS or the jurists and clerks of the various ministries and the UN claim is of little interest to the fish, the water, the oil or those who depend on them. These claims do, however, reassert that these things have been integrated into a semiotic order, and the logic of this order supersedes the real existence of the things. They have become more sign than substance.

The final point to consider is the curious fact that Taiwan is a party to the territorial disputes in the South China Sea as well. As described above, Taiwan fulfils the formal criteria of statehood as listed in the key doctrines of international law, but it is not recognized as a full member of international society, at least not beyond a few scant holdouts. Articles 305 and 307 of UNCLOS only allow states, the UN Council for Namibia on behalf of Namibia, self-governing associated states and territories whose status is clear in UN law and are competent to conclude such treaties, and international organizations (United Nations, 1994, pp. 517-518). Although this sounds like an inclusive list, especially since it explicitly relaxes the definition of 'states', it also explicitly restricts the definition enough to exclude Taiwan. Nonetheless, Taiwan has agreed to respect UNCLOS on a reciprocal basis despite being forbidden from acceding to it (Song & Tønnesson, 2013). It should also be noted that all the other parties to the South China Sea disputes follow a one-China policy, recognizing the People's Republic of China to the exclusion of the Republic of China (Beckman, 2013). The question arises, then, how a legal non-entity could affect the legal realities of legal entities. Of what consequence is Taiwan?

Taiwan is a factor in the simulation for two reasons. First, the Taiwanese government 'occupies' Itu Aba, also known as 'Taiping Island', the largest of the Spratlys at roughly half a square kilometre (Shicun, 2013; R. Smith, 2010). Physically occupying islets and rocks in the area is common, and though the strategy is not immune to being overcome with signification, it does raise the quantity of signification required. The objects, whether people or material, on Itu Aba would first have to be designated

as belonging to the People's Republic of China, and then the rock itself would have to be designated as pertaining to that sign as well, and then that sign would have to be related to the relevant legal category of 'island' or 'rock'. Second, the government of the Republic of China originally published a key map on which the lawyers of People's Republic of China base its claims in the South China Sea already in the 1940s (Beckman, 2013; Song & Tønnesson, 2013). This complicates any historical argument available to the People's Republic of China that there is a historical connection to some feature or other and the other parties to the dispute would be estopped from claiming title on the basis of a regional custom (Beckman, 2013). Again, this is not an insurmountable hurdle, and it too can be integrated into the simulation through signification. This integration would require an alignment of the historical narratives. Legally speaking, just as the PRC succeeded the ROC, the relatively flexible doctrine of continuity would also allow subsumption, and the PRC would inherit existing historical claims (Brownlie, 2003; Crawford, 2007). As a matter of popular perception and intersubjective consensus, modifying a perceived reality is the very essence of simulation. In both instances, then, Taiwan's participation in the dispute is only an obstacle to the extent that it recalls a past that fails to convene to the simulation, but this past is not immune to integration. It, too, can be revalued in terms of the sign value that pervades the order, and the false facticity of the PRC's claims is an inevitable eventuality, and when it comes, it will have always been.

Whereas the production order was characterized by standardization, uniformity and reproducibility, which yielded a collection of interchangeable parts, hyperreal international society is a unified mass whose internal diversity is difficult to discern, as is evidenced by its regulation of maritime sovereignty. The simulation period began with multilateralism in the context of the League of Nations and the Hague conference, and this move towards apparent inclusiveness failed in its explicit aims, but it did initiate the process of homogenization. By UNCLOS III, homogeneity reached its maximum with consensus, even though this universal inclusion yielded exclusionary results. UNCLOS I was to damp the competitive declarations of many parties acting alone, but it took little account of an existing and legally enlightened draft. Despite surpassing the draft vastly in the quantity of regulatory specification it contained, UNCLOS I signally failed to specify or cap the extent of the territorial sea,

a failure UNCLOS II repeated despite having an even more explicit goal to accomplish just that. UNCLOS III is a regulatory behemoth that includes arcane geometry, typologies of maritime jurisdictions and their complex relation to typologies of non-continental landmasses, both natural and artificial, spread over hundreds of pages, articles and parties to whom they pertain. Despite this surfeit of precision and integration of geological and hydrographic expertise, claims made in this precise language remain vague, conflict over its terms persists, and the status of the claimants is much less clear than that of the overarching order that is supposed to give the possible statuses meaning. UNCLOS also contains some of the most inclusive language in all of international law, like the phrase 'common heritage of mankind', while also conjuring several signs, like the EEZ, whose meanings are antithetical to that language. UNCLOS, as the most elaborate effort to signify international society's existence on the sea, describes a world in astonishing detail, but it is so divorced from the world in which subjects live and the sea they know that it can best be described as a simulation. Unlike most simulations, however, it offers no exit, nor is it a deviation from a more persistent and continuous reality. It is the continuous, persistent and exaggerated hyperreality.

Simulating fair trade with meticulous obscurity

The history of the MFN in late modernity mirrors those of nationality as the basis for statehood and the territorial sea in many ways. As in the other cases, the interwar period is the critical juncture, and the eventual form of the rule starts to take shape between the world wars, leading to a grandiose and seminal post-war regime. The initial form of this regime is also a kind of pseudo-multilateralism, which is then followed by a totalizing universalism. The objects the rules are supposed to regulate, their signifieds, become increasingly abstract over time and increasingly removed from the existential frames of reference and phenomenology of the subjects affected by them. And like the other cases, trade regulation on the basis of MFN is so punctilious as to seem immediately important, indisputably articulated, and still utterly artificial. It too helpfully reveals the hyperreality of international society in the past century or so.

Despite these similarities, the MFN case also displays some particularities. First, whereas most members of international society welcomed the attempts to legislate the territorial sea and the relation of nationality to statehood during the interwar years, there were countervailing tendencies in the contemporary history of the MFN. While there were pseudo-multilateral efforts to legislate, or at least to codify, the meaning and applicability of the MFN, there were also vehement and widespread policies to counteract its use and effects. Nonetheless, representations at the level of international society prevailed over particular national policies, and the MFN became a momentous sign in the post-war trade regime. Second, unlike in the other two cases, however, this sign was not integrated into the UN, but universalism prevailed anyway in that a special trade regime emerged to compensate the lack of a UN trade bureaucracy. This indicates that the historical momentum of simulation was strong enough to persist independently of a particular organizational form. Finally, the objects the MFN is to regulate have changed considerably, probably more so than in the other two cases. While the state as signifier has undergone some potentially profound changes of limited scope, as the complex network of rules in Europe and regulations on the uses of internal and external violence suggest, and the sea is for all historical purposes constant, appearing to change only because of technological changes that alter society more than the sea itself, the sort of things traded among parties of international society have changed dramatically. Specifically, there has been a dramatic shift later in the simulation period towards trade in services, which consist in large part of how an activity is described, rather than material goods, whose signifieds play a much greater role in how they are represented and in intrafirm trade, in which ephemeral measures of capital supersede material goods and the borders that define states lose coherence.

These differences also provide a clue as to the most important episodes of this case in this period. The first is the erection of the General Agreement on Tariffs and Trade (GATT), which emerged after the Second World War. The GATT made the MFN its centrepiece and inaugurated the period of the rule's centralized universalism. The second episode runs from the early 1980s to the mid 1990s, when the trade in services expanded rapidly. This shift in the objects of trade brought with it an explosion in the number of bilateral investment treaties (BITs). The terms and scale of the BIT

network are staggering, and they are a regulatory correlate of the increasing abstraction of trade and legal personality. That is, they reveal the extent to which rules are the means of populating international society with legal entities and to which these entities and their world is very different and remote from most subjectivity.

Don't call it a comeback

At the end of the production period, the unconditional formulation had regained predominance over the conditional formulation as the standard form and interpretation of the MFN clause in a wide network of trade relations. After the vacillations back and forth between the two formulations, uniformity was restored and standardization persisted. Despite the settled uniformity and the terms and apparent meaning of the rule, it would face two further hurdles before becoming a naturalized, dogmatic feature of international society that could be articulated to indefinite levels of sophistry.

The first hurdle was that, even though the standard form of the state was fairly settled in the grammar of international society, it was also rife with aberrations in the form of colonies that were neither excluded nor included as full members. Throughout most of the production period, this was of no great concern, because colonies were generally treated in law and fact as possessions of the metropole, so the signs of sovereignty and membership were untouched. So long as any chain of subservience and domination ended with a state that met the standardized criteria of modern statehood, then whatever dependencies that fell under that sign could be neglected. As recounted above, however, hyperreal international society admits of no gaps or overlaps, and international society came to supervene increasingly on other signs. Consequently, the range of colonial statuses became more stratified to include increasing numbers of protectorates, dominions, dependencies and so on. Moreover, the legal interpretation of many of these terms was changing rapidly, such that a term like 'protectorate' could denote different statuses in successive decades (Baty, 1921). The addition of the League of Nations to signify the will of international society, which was then delegated to mandatories to promote the independence of mandates, made the semantic field and the relations of difference more complex still

and diverged in many ways from the more outright colonial institutions that preceded it without entirely replacing these (Anghie, 2002).

From the perspective of trade and the MFN clause, the proliferation of statuses, some more and some less like the standard states of the production period, is relevant in that it became increasingly difficult to assess clearly in many instances what counted as 'foreign'. Foreignness is a mark of distinction between state signs, and if a colony is not foreign, trade between the colony and the metropole is internal trade, but if a protectorate is foreign, then that trade is foreign trade. It was a general understanding during the production period that metropolises would maintain preferential trade relationships with their colonies, but the multiplication of dependency statuses complicated this apparently clear interpretation. The MFN made it particularly vexatious because it always implies three parties: the two parties concluding the treaty and the most-favoured third party that serves as the reference for parity and fairness. Thus, if one metropole was negotiating a trade treaty with another and claimed that a protectorate with preferential terms of trade should serve as the reference party, those terms, which the other metropole considered 'internal' rather than 'foreign', could cascade throughout its trade relations (Clute & Wilson, 1958). This led to conflicts of interests, in which mandatories often considered preferential terms of trade and market access part of their compensation, while others sought an 'open door' policy, according to which all members of international society could trade and invest in the mandates on equal terms (Anghie, 2002).

The second impediment was the economic collapse of the 1930s, which meant there was less economic activity in general and less appetite for trade in particular. The outline of the story is well-known: a complex network of relations involving reparation debt, war debts, and private market overvaluations collapsed as the decade began, and the collapse cascaded throughout markets, which were strongly interconnected and in which there was little insulation between public and private finances. Part of the phenomenon was monetary, but there was also a sharp drop in trade for lack of adequate demand for distress goods (Bernanke, 1995; Kindleberger, 1973). Besides demand, many barriers to trade were erected, many in the form of non-tariff barriers, including quotas; tariff classifications, in which the legally

relevant definitions of what constitutes ‘likeness’, for example, are adjusted to exclude foreign goods; and health and safety regulations (Bailey, 1933). Unsurprisingly, the MFN clause in the network of trade in international society also lost value, for if *no* party is favoured, then the *renvoi* and the network of trade relationships it allows become impotent.

The defanging of the MFN represents death throes of the production order. Just as there appeared several exorbitant claims to territorial sea breadth just on the eve of UNCLOS ushering in the simulation order, the reciprocal erection of trade barriers, contradicting the newly re-established network of unconditional MFN relations reflects a Vattelian notion of interest rather than a universal bureaucratic, legislative consensus or singular grammar.¹⁴⁰ That protectionism was so widespread conforms to the idea that standardization was a hallmark of the production order, and that inhibiting trade could be depicted as the best means to serve interest instead of the dogmatic commitment to comparative advantage that had prevailed just years prior reinforces the commodification of rules and the states they define. After all, two such reversals of dogma occurred in the 19th century, where effectively opposite trade doctrines were held to promote roughly the same goals, and each of these doctrines was almost universal during its period of predominance.

While the production order did seem to be reasserting itself, there was also a countervailing trend towards increasing simulation. For example, the League of Nations Committee of Experts studied the MFN clause in the mid-1920s and concluded in 1927 that, while the clause was very useful to trade, codifying a standard MFN clause might restrict its usefulness through *too much precision* (Hilf & Geiß, 2011). Nonetheless, the League Council adopted a model MFN clause in relation to tariffs in 1929 (UNCTAD, 1999), and in 1936 the *Institut de Droit International* went a step further by attempting an ‘unofficial codification’ of the clause, adopting a resolution about the principles of its use, formulation and

¹⁴⁰ Even some liberal policies during this period were following a Vattelian grammar of interest. For example, the Commonwealth adopted a regime of imperial preferences at the Ottawa conference in 1932, although it had rejected such a policy in favour of more liberal trade rules in two previous conferences (Lobell, 1999). The Commonwealth did, however, provide some non-members with better terms than others, such as Eire, Burma and notably, the United States in 1938 and again with the Mutual Aid Agreement in 1942 (Clute & Wilson, 1958). These exceptions, though liberal, were clearly preparations for an interstate war, which is anathema to the simulation order.

interpretation (Hilf & Geiß, 2011). So despite the general trend against the kind of liberal trade regime the MFN would support in its unconditional, 20th century form, there were also indications that the signs of international society proliferating by declaration and the reality of political life was reconfiguring through legal forms.

Diffuse universalism in the GATT

The post-war development of the MFN parallels the two cases described above in that first, the rule achieved universal status and then the proliferation of rules modifying and adjusting its terms made it hyperreal. Unlike the other two cases, however, universalization occurred outside the context of the UN, but only just. There were initially plans to integrate international trade and the MFN as its governing principle into the legal system of the UN, and the history of why this failed to occur foreshadows its later simulation.

Put simply, the MFN for trade was excluded from the UN system because of the conceptual fusion of trade and investment. These two concepts blurred into each other as the 20th century progressed for two reasons. First, corporations were becoming multinational, and much trade that would have formerly clearly counted as international trade as long as firms could be attributed a distinct nationality became intra-firm trade (Bairoch & Kozul-Wright, 1996). If, for example, a produce firm based in the United States ships fruit grown on its farms in Guatemala to its European warehouse in Rotterdam, and the fruit is never sold along the way but remains the property of the corporation as a legal entity, it becomes increasingly difficult to designate this phenomenon as *international* trade because the capital effectively remains within a national territory. Instead, the value is contained in the investment the firm makes in the various jurisdictions and the signification involved in objectifying that value across jurisdictions. Second, services became an increasingly large and important source of economic value creation, and services do not travel as goods do because they are often ephemeral, used immediately, resist packaging, and so on (Lipsey, 2006). Instead, firms providing services, like legal representation, education, banking and the like tend to establish a local branch to conduct their 'trade' in 'foreign' markets. The growth of intra-firm trade and the increase in the trade of services combined to make investment and its legal

protection more pressing as a regulatory question relative to the terms of trade for physical goods, to the extent that it was still clearly distinguishable what transfers of value were to count as either trade or investment.

Even before discussing the consequences of these changes, two points are worth noting that will become relevant later. First, the state, as the container and sign of domesticity and foreignness, required increasing signification to maintain its integrity. Modern legal signs like 'sovereignty' were losing their ability to sustain the symbols, narratives, and folk markers of nationality, like language and physical appearance, that were erected during the production period. Changes in the type and meaning of economic activity further disintegrated the sign of statehood, but as demonstrated above, legal rules coming from and constituting international society could reinforce it. Second, value was becoming more ephemeral and less tangible. While economic value can be distinguished from the types of semiotic value used here, they are not entirely independent either, and this is especially true at the simulation end of the spectrum. A tool, like a lever, is recognizable as such, is defined, by its use value, though sign value, perhaps through fashionable design or branding, can strongly influence its monetary value. A service, however, is much more heavily dependent on sign value. An hour of legal services is much more difficult to identify and value compared to a hammer, especially at the margins of vast quantities of such hours.¹⁴¹ This implies that valuing such ephemeral quantities requires signification, and this signification will eventually have to come from the highest semiotic level of late modern law: international society. If services are to be defined and regulated by law, that law must come from a legislative authority, but even that authority requires a context in which its legislative capacity is intelligible and natural. Whereas a hammer can be fairly well defined through its use as such, preparing a stock market offering or a psychiatric evaluation requires legal definition, and laws require states for their definition, and states in turn require an international society.

Although the expansion of services would contribute to the proliferation of signs of international society dramatically, it initially prevented this signification from being

¹⁴¹ Of course, this logic applies to virtually all intellectual products, including dissertations.

integrated into the group of rules constituting the UN. Still, this integration, which now seems natural, was attempted. Immediately after the Second World War, as the UN was taking shape and affiliated sub-organs were proliferating, there were negotiations to establish an International Trade Organization (ITO). Indeed, the Havana Charter was to serve as the founding document, and it is no surprise that, given its long history in the history of international trade, the unconditional MFN appeared as article 16 (United Nations, 1948). Article 12, however, was abhorrent to private capital investment. In particular, it stated that investment is 'of great value in promoting economic development and reconstruction, and consequent social progress;' and that each UN member was to have the right to 'ensure that foreign investment is not used as a basis for interference in its internal affairs or national policies; to determine whether and, to what extent and upon what terms it will allow future foreign investment; to prescribe and give effect on just terms to requirements as to the ownership of existing and future investments' (United Nations, 1948, p. 20). Even though the Charter goes on to encourage members to provide for a friendly and equitable legal environment for investment, the emphasis on 'social progress', and independence from interference and in setting terms of ownership was too hostile for the tastes of many American legislators, who consequently rejected the charter (Dattu, 2000). Although 'foreign' investment was experiencing a historical lull after the Great Depression and the Second World War, much of it originated from American private and public sources (Lipse, 2001). Given the status of the American sign in contemporary international society, especially relating to rules on trade and investment, the entire document and organization was devalued by the American rejection.

Another type of rule that was proliferating at the time were so-called FCN treaties, where the acronym stands for 'Friendship, Commerce and Navigation'. These treaties were bilateral and included some innovations, like including corporations rather than just individuals and states as entities with legally protected rights and submission to the jurisdiction of the ICJ in case of disputes (Vandeveld, 2005). They also prescribed equitable treatment and tended to realize this prescription through the MFN. However, these treaties failed to become a universal standard form for two reasons. First, as with the abortive Havana Charter, the protections for investment

were widely held to be too weak for the capital at stake (Vandeveldt, 2005). Second, a new set of rules for trade was emerging in the wake of the ITO's failure that would provide a central, universal framework for trade rules and had the MFN clause at its core, which made the FCN treaties increasingly obsolete.

The alternative to an international trade organization was the GATT, and it is important to consider in the case of the MFN clause in trade because the MFN is contained in article 1 of the GATT and is 'the single most important concept' informing the general agreement (J. Gowa & Hicks, 2011, p. 2). Even though the GATT was negotiated along with the ITO and was foreseen as an important component of the organization, the GATT differed from a standing organization in two dramatic ways (Mavroidis, 2007). First, it was not a permanent organization, which means that it effectively lacked a centralized bureaucracy. In fact, article 29 of the GATT stipulates that its entire Part II was to be disregarded once the ITO came into being and that should the Havana Charter be suspended, the parties to the GATT were to meet as soon as practicable to re-evaluate the permanence and scope of the GATT (GATT, 1986). Second, it was outside the UN system, which might have curtailed its universal pretensions. Indeed, it initially attracted only 23 signatories. At first glance, then, the GATT seems a poor candidate to indicate a simulation relative to the ITO and the other two cases.

Despite these differences, the GATT is a clear instance of sign value in international rules. The lack of a centralized bureaucracy is not necessarily a defect because the provisions of article 29 meant that dozens of parties were meeting almost constantly in successive rounds of further regulation. The first four rounds of negotiations took place within a span of only 9 years from 1947-1956. While the subsequent five rounds spanned five decades, their duration has increased progressively with the first, the Dillon round, spanning two years from 1960-61, the second Kennedy round lasting five years from 1962-67, the third Tokyo round reached six years from 1973-1979, the fourth Uruguay round began in 1986 and was concluded eight years later in 1994, and the latest Doha round began in 2001 and is still on-going 14 years later (WTO, 2015). And while the original document included only 23 of the 57 parties to the UN at the time, the Doha round currently includes 151 of the 193 UN members today, an

increase from about 40% to 78%.¹⁴² Thus, like UNCLOS, the GATT includes veritable armies of diplomats, constitutes an imposing set of rules in international society and is undergoing constant rearticulation and legislation. It did not begin formally as an organization, but that is perhaps a distinction without much difference for most analytical purposes. It achieved universal status regardless.

The hyperreality of the GATT is also evident in two other dimensions: its expanse and its content. In terms of expanse, the GATT surpasses even UNCLOS by a wide margin. In 1995, following the Uruguay round, the World Trade Organization (WTO) was established in place of the ITO, which never came to fruition. In 2006 then Director General of the WTO announced that all GATT documents would be made publicly accessible (WTO, 2006b). By that time 39 000 GATT documents had *already* been released to the public, and this decision meant that a further 49 000 documents, which until that time were still restricted, were to be released. Apparently missing the irony, Lamy stated that “Providing access to these historic documents is a further sign of the WTO's commitment to transparency” (WTO, 2006b), as if this mass of signification would facilitate the recognition and interpretation of meaningful representations and rules. The WTO website assembled 150 000 documents deemed to be of public interest within the first decade of the organization's existence (WTO, 2006b). Even just the concluding documents of the Uruguay round, which include the Agreement Establishing the WTO and the expansion of the original GATT, known as GATT 1994, span 57 documents and 596 pages. Regardless of the content of these documents, they present a contextual range so vast as to both disorient as well as obscure.

Although the simulation of the GATT system is apparent in many aspects of its history and the rules that constitute it, I will examine two in particular for different reasons. The principal supplier rule serves to exemplify the disjuncture between the reality the GATT is meant to effectuate and embody and the one it actually produces,

¹⁴² The original membership of the UN included Byelorussia and the Ukraine, both Soviet republics, whose status as independent states, even if one accepts the state as an intelligible legal person, is highly debatable. It could also be disputed whether UN membership is the best or even a proper indicator of statehood, but I problematize and contextualize this measure above. In any event, discounting these members would amplify my point about the marked increase in the number of GATT adherents.

and the problem of likeness shows the depth of sophistry in the GATT system and the extent to which the objects it invokes are determined by sign value.

The preamble of the GATT lists the goals the rules are meant to achieve, which include raising standards of living, achieving and maintaining full employment, constantly increasing income and demand, and exploiting the world's resources to the full (GATT, 1986). In short, it aspires to the kind of economic life liberal economic theory promises, and it makes no subsequent divisions on the basis of different states, nations, territories or peoples. Robust production and trade of goods is depicted both as the means to achieve this good life as well as the goal to be pursued. The MFN clause appears as article 1, and because the clause is supposed to equalize tariffs and liberalize trade through a cascade of reductions throughout the system, one could also suppose that this liberal outcome is to be achieved with equitable means.

The principal supplier rule, however, serves to undermine these ends and the MFN as a means. Appearing already in the protocols leading up to the Havana Charter, the principal supplier rule states that, when considering a tariff reduction, importers are to consider the requests of those who supply most of their imports of a given good (Joanne Gowa & Kim, 2005). The ostensible purpose of the rule is to prevent free-riding, for if one especially active party makes concessions to secure a tariff reduction from a good customer, the MFN would automatically extend the benefit to all third parties without them having to make similar concessions (Mavroidis, 2007). In effect, then, the principal supplier rule seeks to secure compensation for the negotiating efforts of the active traders and negotiators without jeopardizing the automaticity of the clause in the fashion of the 19th century conditional formulation.¹⁴³ In practice, however, the rule was not as benign as it would appear because it automatically discriminates against 'developing countries', which is to say the people divided by international society into poor jurisdictions who fail to dominate the market in any given product (Wilkinson & Scott, 2008). Thus, the rule effectively creates an exclusive club of dominant parties, who can determine what trade will be negotiated when as well as the terms of the outcomes (Joanne Gowa &

¹⁴³ For a description of the conditional formulation, its effects and its fleeting popularity, see chapter 4.

Kim, 2005). Since those at a market disadvantage are rarely the principal suppliers of anything), with the exception of raw materials, which were generally duty-free imports in most wealthy economies anyway, the principal supplier rule allowed the scale of economic jurisdictions to determine priorities and chances of trade leading to prosperity (Ismail, 2008). In the words of Gowa and Hicks (2011), “the post-war economic regime only nominally institutionalized MFN treatment ... after 1945 the international economic order privileged trade between large countries in both North and South” (7).

International disparities in prosperity and terms of trade in late modernity are common, and this is probably not even the most grievous example, but it does reveal the simulation to a startling degree. Those parties disadvantaged by the GATT were aware of the life promised in the preamble, and the creation and growth of several international institutions critical of the international economic order it represents and maintains, like the Group of 77, the Non-Aligned Movement and the UNCTAD, have been attributed to their disillusionment (J. Gowa & Hicks, 2011). But it would appear that the illusion is stronger than the disenchantment. The GATT continued to attract members, many more of whom produced too little of too few goods to profit from the principal supplier rule. In that sense, the simulated world of prosperity through trade and trade on the basis of freedom and non-discrimination was more enticing as an aspiration than the disappointment with the systematically corrupted reality.

The second aspect of the GATT that reveals its simulation is how it signifies ‘likeness’. In terms of symbolic exchange value, likeness is unintelligible, because the defining feature is the uniqueness of the other subject and the token symbolizing the relation. Likeness is immediately recognizable from the perspective of use value in that two objects that are put to the same use are, in the political economy of semiotics, alike. Exchange value makes the assessment more abstract in that the qualities of the objects are no longer relevant, merely the value they would attract in exchange as commodities. Their value is effectively barter value, and likeness means equivalent value in kind. By contrast, sign value makes likeness indefinite because identity is established by signification, and in a system of indefinitely many and proliferating signs, identification cannot be definitive. Likeness is relevant in

reference to the MFN in general because a tariff rate need only be extended to third parties if they also export similar products that would fall under the tariff, and likeness in the GATT order displays an unfathomable quantity of signification and results in obfuscation.

The history of adjudicating disputes in the GATT order has produced *three successive tests* to determine likeness (Horn & Mavroidis, 2001). The first is the ‘unsophisticated market test’, and it assess likeness broadly on the basis of intuition by looking at two products that a claimant asserts belong in the same category and examining characteristics that appear relevant. In the definitive case, the two products were vodka and shochu, and the characteristics considered included such characteristics as taste, appearance, use, and so on (Horn & Mavroidis, 2001; WTO, 2006a). Getting further from this relatively graspable level of identification, the next test, known as the aims-and-effect or ‘government intentions’ test, recognizes that likeness might not obtain, even if most people would perceive likeness in a given case, should the government applying the tariff dispute likeness for reasons other than protectionism. According to this test, then, a law can declare vans and cars to be dissimilar, even though most people would dispute this assessment (Mattoo & Subramanian, 1997). Because the aims-and-effect test would potentially discharge article 20 of the GATT, which covers a number of exceptions, the cross-price elasticity test, also known as the sophisticated market test, was developed and assesses likeness in terms of the sensitivity of the price of one good to changes in the price of the other (Choi, 2002). Thus, this test defers determination of likeness to ‘the market’ and uses prices to indicate whether one product is substituted for another in fact. However, other criteria tend to be considered in conjunction with cross-price elasticity to avoid spurious correlations, as would be the case when, say, an increase in the price of strawberries is immediately followed by an increase in the price of bathing suits, which would have more to do with seasonal demand than the similarity of berries and bikinis (Cartier, 2003; Jingxia, 2012). However, exactly this inclusion of non-price information in addition to cross-price elasticity has, ironically, attracted criticism on the grounds that ‘[the] test will be “diluted” and eventually deprived of its meaning’ (Horn & Mavroidis, 2000, p. 242).

Of course, evaluating each pair of goods before an arbitration tribunal would be very slow and costly, so most GATT/WTO members adhere to the Harmonized System (HS) for most questions of classifying products. The World Customs Organization developed this system in which greater specificity in product definition is reflected in further digits in the classification scheme. That is, a longer numerical designation is more specific. For purposes of the GATT, the scheme is binding up to the sixth digit (Horn & Mavroidis, 2000; Mavroidis, 2007). At this level of specificity, there are 12 different classifications of 'potatoes' as a good, ranging from the general level of 'Potatoes, fresh or chilled' (HS Code 0701) to the specific 'Potatoes, Prepared or Preserved (Frozen; Excluding By Vinegar, Acetic Acid)' (HS Code 200410) (World Customs Organization, 2012). This example shows that the scheme is capable of hyperreal levels of precision even in cases of seemingly the most mundane goods.

The precision of the HS in goods is oddly elaborate when compared to its classifications of services, especially given the increasing importance and volume of traded services described above. For example, there are only two codes covering insurance, and though the numeric codes differ, at least in terms of specificity (HS Code 993899 and 9938), both are described as 'Insurance Agents, Brokers, & Service' ((World Customs Organization, 2012). This broad designation would potentially admit everything from local multi-payer health insurance cooperatives to institutional hedging products traded on international financial markets. As a result, the HS is supplemented by the Sectoral Services Classification List, developed by the WTO Secretariat, and the UN Provisional Central Product Classification. Even with these additions, though, both elective plastic surgery and life-saving cardiology would fall under the same classification of 'specialized medical services' (Cossy, 2006). Even though a General Agreement on Trade in Services accompanied the Uruguay round and the advent of the WTO, which also has the MFN as its core principle, it is still relatively unclear how and when it applies despite a vast framework of rules and classificatory schemes to aid in their application.

These technical details also reveal interesting qualities about late modern states as signs and international society as the system that relates them to each other. As with the development of the territorial sea, international bureaucracy is acquiring an

increasingly important role in the determination of likeness, which is no less than the assessment of the identity of objects and activities. The most ordinary objects of daily life as well as the most arcane and valuable financial products that tend to disregard borders are both filtered through byzantine classification schemes and the jurisdictional purview of international tribunals by virtue of being available in the boundless market of international society. States' borders are the manifestation of the semi-permeable filters created in law, and they are expected to obstruct or facilitate the passage of goods and value with sometimes microscopic levels of differentiation. And this is the result of the MFN becoming the centrepiece of a universal regulatory order.

BITs: value crossing the world but not the tax return

It would be possible but superfluous to examine the WTO and the GATS each in similar detail because they follow the historical progression towards sign value rather than break from it. But there is another form of rule in international society that typically includes the MFN and is worth examining because it displays the tendency towards simulation, it is relevant to both the growth of intra-firm international trade and trade in services, and seems to be achieving a universal value without a multilateral procedure: the bilateral investment treaty (BIT).

BITs first appeared in the late 1950s, and they were typically concluded between a wealthier and poorer party (Vandevælde, 2005). The ostensible purpose of these early treaties was to protect investments from nationalization, which many considered insufficiently covered in GATT and the previously common FCN treaties, and though the terms were generally reciprocal, the disparity in wealth between the parties made them perhaps closer to the earliest MFN clauses that appeared as terms dictated to the vanquished in peace treaties. BIT treaties almost universally contain an MFN clause along with clauses of national treatment, fair and equitable treatment for the investments covered by the treaty as well as a guarantee of compensation for expropriated property at market rates and restrictions on exchange controls that would trap the value of the investment.

Whereas the sprawl of the GATT/WTO rules is apparent in the quantity of documents produced within that order, the remarkable quantitative feature of BITs in the last half-century is the rate of their proliferation independently of each other and of other relevant rules. In the first decade of BITs' existence from 1959 to 1960, 75 BITs were concluded, but there were 92 in the following decade, 219 two decades later, and in the 15 years between 1990 and 2005, 2400 BITs were concluded (Vandeveldde, 2005). This represents a rate from 7.5 new BITs per year in the first decade and 160 per year in the last, an increase of over 2100%. By 2005, at least 170 states were co-defined by at least one BIT. This increase reflects the growth in intrafirm trade and trade in services because in both cases firms tend to invest in local resources and subsidiaries rather than sell to separate corporate constructs in a different jurisdiction. It is also reflected in the increasing importance of foreign direct investment in services relative to that in manufacturing, with the former reaching \$7.7 trillion in 2007 compared to \$3.5 trillion for the latter (Vandeveldde, 2010).

Another universalizing tendency in the BIT network comes from the means to arbitrate in cases of dispute. The principal arbitrating body is the International Centre for the Settlement of Investment Disputes (ICSID), which was erected as within the institutional context of the World Bank in 1966. Although many BITs explicitly invoke the ICSID as the arbitrator in case of dispute, the ICSID does not require a BIT to exist between the claimants to conciliate or arbitrate (ICSID, 2006). Further, because the ICSID ruled in 2003 that consent to its jurisdiction in one BIT constituted a generalized consent by that party, and because most BITs contain an MFN clause, the right to ICSID arbitration typically cascades rapidly throughout a network of BIT parties (Egli, 2007). So, the BIT has become an important medium for the MFN signifier, and the medium and the prominence of the signifier have made the form a default in international society.

One might expect that, given the ubiquity of BITs, of MFN clauses within them and the presence of the ICSID as an authoritative interpreter of rules, the MFN clause would have preserved its standardized meaning through the expansion in the trade in services. However, this appears not to be the case. Instead, two features of the current use of MFN in trade regulation seem to be corroding its meaning. The first

comes from the ICSID itself and how it interprets the MFN across disputes. In some cases, the ICSID has been willing to grant itself jurisdiction even when the terms of the applicable BIT only apply with a *renvoi* to another BIT, even if the treaty in question explicitly stated that recourses in municipal laws should be exhausted first. In others, it has deemed such expansive interpretations not to be binding and claimed that the MFN only applies to the fulfilment of investment contracts and not to procedural matters like dispute resolution (Egli, 2007). In one notable case against Siemens AG, Argentinian jurists argued that, to the extent the MFN lets the counterparty of a treaty take advantage of the benefits it would accrue through the MFN from a separate treaty with a third party, the counterparty should also be subject to the disadvantages in that treaty. The ICSID's decision on this argument was that 'favouring' a nation implies 'favourable' treatment, so only the benefits need be assumed to accrue through MFN clauses, which would mean that counterparties in a network of BITs could expect to profit from the most favourable terms in each (Fietta, 2005). This interpretation could potentially give the ICSID jurisdiction in virtually every international investment dispute and render the entire network of international investment treaties into one massive, intertextual treaty, but even after decades, it is unclear how precedent applies in these cases and whether the ICSID considers them similar enough to be bound by them in the future. The vagueness of likeness is a not just a question applied to goods but also to rules themselves, and declaratory acts of sign value are the only available arbiter in both instances.

The second feature of the application of MFN clauses in BITs assumes that the ICSID's most expansive interpretation does not apply and considers the consequences of particularity. According to this view, the ICSID's rulings described above are only problematic if they are taken to be statements about the meaning of the MFN clause in the context of BITs in general. If, however, one assumes that each MFN clause establishes particular relations among unique rules, then each clause and each set of relations it induces has to be judged and interpreted individually (Vesel, 2007; Wong, 2008). While this would achieve the goal of defusing the vagueness caused by contradictory interpretations of the MFN clause in various BITs, it would also mean that there is no such thing as *the* MFN clause as a rule with

a known, real meaning. Instead, each instance of the clause is assumed to have a particular meaning that will change with each further rule added to the network of BIT relations. To the extent that states are the product of all the rules that compose their abilities and constraints, there would also be no 'state' as such. Every state sign is in flux, and some of the rules that apply to them, while asserted to be real, can be subject to incompatible or directly contradictory interpretations simultaneously.

There is a final point to make about the structure of relations described in the late modern trade treaties, especially as these have shifted to cover investment and services. The persons these treaties invoke are corporations, as those whose value is at stake, and states, as the legal persons with obligations to protect that value or at least to compensate its loss. Such relations bear two hyperreal aspects. First, states, or at least the international society they jointly constitute, are ostensibly the source of legal authority. Their law is the most 'legal', their rules are the most firm, and other kinds of law, like *lex sportiva* or *lex mercatoria* exist at their mercy. But the system of rules constituted by the BITs and the ICSID present a very different picture in which states are subject to the normative interpretations and argumentation of investors. As Franck (2005) put it, '... these shifts have created a private cause of action against Sovereigns, which permits investors to act like "private attorney generals," and places the enforcement of public international law rights in the hands of private individuals and investors' (1538). Second, the relations consist purely of abstractions. The value of services, at least those susceptible to international trade or coverage in international investment treaties, is a matter of sign value. The value of an hour of management consulting relative to an hour of smithing is not contained in the two activities and has to be assessed relative to other measures of status. And the personality of both states and corporation is a matter of sign value, resting on declaratory acts that create an otherwise imperceptible reality, replacing it with a simulation described in more detail. Thus, the system of treaties regulating investment and trade in services, which has grown up around the MFN clause, is a case of an abstract class of person protecting the abstract value claimed by another class of abstract person.

The diffuse form of the network of BITs should not surprise. It is commensurate with the increasingly diffuse nature of the products being traded and the legal character of the producers, the owners and those claiming the jurisdictional boundaries that constitute 'trade' in the first place. It is also a product of its time in general, a time in which value is a matter of declaration, the validity of declaration a matter for further declaration, and in which contradictions are either declared to be consistent or embedded in so great a mass of signification as to render them barely perceptible. These rules are so far from the real that they require an alternative, simulated reality to give them a context of intelligibility.

Conclusion

In this chapter, I have traced the rise and extent of sign value across the three cases. In each case, international society became universal in geographical and demographic expanse as well as a representation of the source of law. Each case also displays internally contradictory rules: in the case of the right of national self-determination that can only be ratified by Others, in the case of a common heritage that is progressively apportioned according to ability rather than need, and in the case of a trade agreement for the benefit of all but whose form is determined by criteria of ability rather than need.

This aspect of contradiction is important to hyperreality as one indication of the breach between reality and simulation, but it is not the only indicator of simulation. Two others are even more important, and the three cases display them as well. The first is the universalism of the simulation. The real might yet be perceptible at the margins, but these rules have a universal reach; international society has no margin. The second is the proliferation of signifiers. This proliferation confirms the intuition that, as the number of signifiers grows, their signifieds approach a semantic asymptote. Meaning inflates until the system pops and overflows. The proliferation also suggests that, as the signs become meaningless, they demand further signification to shore up the symbolic efficiency of the system, leading to still more semiotic proliferation. The result is relentless expenditure of sign value, where each

sign denotes only by declaration, and no declaration is in itself and on its own terms credible.

The final feature of the simulation is its hyperreality, the seemingly self-evident reality, in which the distance from the real is hardly noticeable. Late modern international society is a dogmatic truth in that an alternative mode of credibly representing macrosociety seems unavailable, and even if an alternative were conceivable as a teleological end, the institutions represented in international society are the only conceivable means. But this reality is simulated, and the best evidence for this is the incessant resignification required to maintain it. The rules of international society assert their reality too often and too forcefully, but reality needs no declaration. Regardless of this lacuna between the real and the simulation, there is no indication that the simulation will end because there is nothing in the grammar of the system that would reverse the frenzy of signification and no visible path to the real.

Chapter 7: Conclusion

*Go, go, go, said the bird: human kind
Cannot bear very much reality.
Time past and time future
What might have been and what has been
Point to one end, which is always present.* (Eliot, 1936, p. 186)

This story began with the claim that something is wrong with international society. It is not a set of states endowed with actorhood and among whom common rules and institutions prevail, so the problem is not one of institutional design, legitimacy or effectiveness. Rather, it is a system of representations in the form of rules, and like any system of mutually referential representations, the meaning of each is a function of its relations to the others. The system, however, has lost meaning and the capacity to contain meaning. This would be no great loss were international society a strictly academic term of little import, but it is the framework that circumscribes what we know as law, the affiliations that determine who, when we deign to redistribute wealth or show solidarity, is likely to be deemed worthy of a share, and whom we turn to when catastrophe, natural or artificial, strikes. The problem is that this towering source of normative meanings and existential reassurance is itself meaningless and alienating.

This was not always the case. In the counterfeit period the antecedent of current international society, Christendom, was still meaningful. Its signs could contain and transmit meaning because its source of meaning was irreplaceable and its social correlate was held to be a singular, if flawed, copy of a unique and transcendent order: the kingdom of heaven. Rules were hardly reproducible because they tended to exist between particulars. Sovereignty was a quality of sovereigns, each of whom stood in a unique relationship to God and His vicar(s). Each had claims to specific property and to tribute from specific subjects, here operationalized in the form of the territorial seas and the early appearances of the most-favoured nation clause in trade treaties. As the singularity of the divine original fractured, so too did the order it ordained and the rules that constituted it.

Without a transcendent guarantee of rules' obligatory status or even of a single social organization to reflect them, the order and the power to order evolved. Sovereignty became an abstract quality maintained by rules, but these rules were also standardized and reproducible, commodified. As copies of each other, without an original, the signs of international society were subject to exchange value. In concrete terms, modern states emerged, each with the standard paraphernalia of modern statehood: official emblems, histories, languages, militaries, interests, populations and enemies. The territorial sea, formerly a matter of particular claim, became standardized at the distance of one league, which roughly combined a practical range of eyesight with the ostensible logic of cannon range, conforming to the rule that equated possession with occupation. That cannons could shoot as far as a league only for a historical instant, that virtually no coastline was in the range of any cannon at any given time, and that eyesight was a highly variable measure were irrelevant because a reality was being created rather than approximated, which removes many constraints indeed. The MFN also witnessed a great expansion in its use, only to see the usage reversed diametrically for about half a century and then reversed again. Again, the content of the rule was secondary to its form. It only had to serve as a marker of stateness, not to be durable or meaningful. But the logic of production contained the seeds of its own dissolution, for rules cannot be reproduced indefinitely without semantic corrosion.

The corrosion of meaning that began in the production order has culminated in our current simulation system. In this order, international society contains so many rules and contradictions that its existence is beyond belief, but it maintains symbolic efficiency by proliferating ever more rules, like a liar who flees from confessing by adding ever more detail and addenda to the lie. The representations of states are so persistent as to have, in many cases, achieved zombie-status, persisting as states even after all the paraphernalia of modern statehood has collapsed or possessing all requisite paraphernalia and reflecting the standard representations without being statish enough for statehood. The nations that provided the modern occasion for statehood are, in late modernity, in no position to acquire statehood despite a host of rules relating to national self-determination, which is a right ostensibly guaranteeing just that. The territorial sea has evolved into UNCLOS, a hydra of maritime territorial

jurisdictions and rules that simultaneously invokes terms like 'the common heritage of mankind' while denying access to vast tracts of sea to most humans and make it reasonable to erect a city upon a wet rock. The MFN is embedded in the GATT, which is an interminable but indecisive exercise in legislation, in which fairness is exclusive and one cannot discern the similarity of a car and a van or even be sure of the meaning of similarity as a legal concept. The growth of services and intra-firm trade have compounded the level of abstraction and created a vast network of mutually referential treaties in the form of BITs whose status is indistinct but whose value is hardly questioned. These rules mean ever less individually, and the international society they jointly compose lacks any other source to give it meaning. It simulates itself without hesitation, irony or end.

This account complicates several prevailing judgements about social progress, especially as it relates to notions like law, social complexity, emancipation, technology, cosmopolitanism and community. For example, the ascent of humanism during the Renaissance and of liberalism during the Enlightenment and the revolutions of the long 19th century were not strictly motions towards greater freedom and autonomy of subjects from primitive, oppressive orders. These motions did not inaugurate an era of autonomous subjectivity, but of national subjects, of citizens, of legal persons under secular jurisdictions, all of which are subsumed in the broader semiotic order and grammar of international society. While this has allowed for greater social complexity, which allows for other developments like greater material productivity and perhaps technological innovation, it has also changed what it means for humans to be factors of meaning. Rather than each token of humanity being a type unto herself, bound in a unique web of tight social relations, she becomes merely a token of a broader type that is easily replaceable and whose status is neither consistent nor clear. Law is not the means to achieve coordination despite the bewildering complexity of modernity as much as the medium of alienation. Starting from this point in history, the communities imagined by a communitarian ethic would be arbitrary and opportunistic, and the cosmopolitan alternative cannot go deeper than the facile similarities of biology. And these dichotomous options are in any event merely reactions to the inadequacy of the perpetual and universal representational system of international society. History

delivered international society from the neurosis of premodernity's division of the world and its subjects into the saved and the damned, but this was simultaneously a move towards the psychosis of the hyperreal, where the world and everyone in it are, for purposes of public and legal order, mere simulations.

Whether or not this story is taken as important or even credible, it has left several questions open. In the remaining space, I would like to provide some further thoughts on three related questions. The first is the moral value of the historical trajectory described here. Though I have asserted on a few occasions that the counterfeit order was not necessarily 'better' than the simulation order and the story here is one of deterioration in one dimension, the claim that this is not an exercise in romantic nostalgia could use some further argument. Much of this argument comes from a concept that I treated only cursorily: the real, which is the second open question. Although even further discussion of meaning, of the real, will only add a few scratches to the sketch, it will help to evaluate the kind of narrative presented here. The third open question is question of narrative and of the real, but it is more structural, namely that the periods described here are fairly well identifiable and synchronized across cases, and these junctures deserve more consideration. These junctures are also important because they are both characterized by horrific brutality, which is deeply related to the real and representation as well.

Apocryphal nostalgia and the good old days

Even leaving the brutality of the junctures between periods aside, the counterfeit and production periods were no Eden. The same logic that gave signs in the counterfeit period the capacity to contain meaning also sanctioned horrid ideas and practices. These range from violent campaigns at the margins of Christendom to bring those outside into the order to internal battles over the correct interpretation of revelatory texts or the right to interpret them to horrendous violence against individual bodies for suspected deviations from the dominant interpretations.

Nor were these instances of brutality calculated from a rational motive of profit or power, for no such motive can account for the deployment of these representations or the identification with them. Greed or megalomania might fuel brutality, but they

do not strictly determine the categories of infidel and apostate. Even if faith were a guarantee of meaning that could resist the will to brutality, faith is not easy and cannot necessarily be willed. The representations of the order provided the occasion for brutality in the name of the counterfeit and the grammar in which the attendant narratives could be expressed.

The production order also begat brutalities of its own. The representation of some people as a coherent and eternal social unit lent itself to narratives that implied or explicitly declared moral hierarchies of subjects. The combination of some subjects being represented as morally inferior with representations of competitive interests among nations yielded the atrocities of colonialism and modern warfare. War may have become more formalized, regulated, at the level of strategy as well as tactics, but it gained little in charity. Further, international society became universal during this period, such that it lost the outer margin that Christendom had, and eliminating this margin was a brutal and bloody process.

On this measure, the simulation period fares rather well in some respects. Human rights might not escape the logic of simulation, being articulated beyond intelligibility in many cases, being applied and ignored according to seemingly arbitrary criteria, and also susceptible to invocation for cruel purposes. Still, many subjects seem to enjoy them, and they do seem to allow for localized circumstances where relationships of symbolic exchange value can flourish more easily without the terror of violence from 'foreign' sources. Even in its purest instantiations, democracy might be largely commodified, but an election campaign in this century is usually much less brutal than an investiture struggle or crusade of a millennium ago, and the winners seldom indulge in an *auto-da-fé*. The recent decrease in the frequency of international violence is a frequently cited phenomena, and the narrative that attributes this decrease to the profusion of legislation in late-modern international society is plausible. Whether this is due to law becoming the new idiom of international conflict, in which case 'lawfare' would be an apt term for a law fulfilling the promise of much progressive legal theory, or to the fact that signs in international society are losing their symbolic efficiency, leaving nothing left to fight brutally for, is another open question.

The story I have presented is not an exercise in nostalgia. Approaching the real, living in and for meaning, does not inoculate against cruelty. Indeed, it would seem that the opposite is the case. Although international society is not the source of all brutality, the brutality that it does inspire seems to vary inversely with the capacity of its signs to contain meaning. This is an important clue in describing what the real is, which is the next question to address.

Triangulating the real with death and grief

I have frequently invoked the real as a qualifier on meaning that makes it really meaningful. That is, even the most hyperreal rules of international society admit a semantic interpretation once translated out of their legalese and related to other commonplaces of the order in question. And there is a gap between hyperreality and reality such that the excess content of a hyperreal system drives it further away from some 'real' aspect and closer to a simulation. This deserves more attention.

As with the sensibility to alienation in and through international society described in chapter 3 that gives this story its urgency and whatever persuasive power it may have, much of the real is not susceptible to lucid, prosaic expression. To some extent, it is a question of experiences of anxiety and estrangement. These are perhaps most universally felt at a personal level and rarely at a level attributable to international society, but there is perhaps a realm of experience that is universal enough to bridge the two and that inevitably reinforces the real: death and grief.

IR as a field has an ambivalent relationship towards death. On the one hand, the immediacy, in the sense of 'impossible to mediate', of violence and death are what inspired many of us to pursue this kind of research and this kind of career in the first place. This fixation is also apparent in the division of labour among social sciences. There are sociologies of death, histories of war, psychologies of grief, and economics of violence, but all of the attendant disciplines are thinkable without the particular death-centric research programmes. There is much to IR beyond death, but it is unthinkable without the spectre of mortality and brutality. On the other hand, IR represses the reality of death. Peace and the conditions for its perpetuation are a more palatable subject than war, though the impetus for the study of peace is, of

course, the horror of war. When war and violence are the direct focus of study, they tend to become sanitized and decontaminated with abstraction in the form of euphemisms, like 'collateral damage', aggregate statistics that hide the experience of death, like the arbitrary thresholds of battle deaths that are used to identify wars, and formalized descriptions of the technology of war in the form of game metaphors, sterile descriptions of tactical operations and focus on the macro-level of institutions and states rather than on limbs, personalities and families (Heath-Kelly, 2015). Like an addict, IR assiduously avoids the topic that defines its existence.

Repressing the fear of death is utterly common, utterly human and has attracted plenty of attention. Appositely for Freud, repression always indicates ambivalence, a simultaneity of desire and the fear of gratifying that desire (Freud, 2010 [1896], 2010 [1900]), and this recalls the real in two ways. The first is by recalling repressed material in an interpersonal relationship. The ambivalence that leads to repression refers to simultaneous feelings of hostility or resentment and love and respect. While, for example, the abstract signifier of 'mother' includes very little negative content, there will always be some resentment in fact that is based on concrete events, perceptions and feelings. Thus, an abstract mother is like any other, but repression indicates a particular reality of a unique relationship. The second comes from a kind of mass disillusionment. Writing as the First World War was achieving its full momentum, Freud noted that the promise of civilizing empires, especially the British, had not been realized with a *pax Britannica* but with its opposite: barbarism. Further, he notes, along with many others in philosophy and literature, that death gives life its meaning, its urgency, its vitality, and though conventions of polite conversations and the conceits of modernity had reduced death and its meaning to an occasional appearance in literary allegory, the war was recalling it: "It is evident that war is bound to sweep away this conventional treatment of death. Death will no longer be denied; we are forced to believe in it ... Life has, indeed, become interesting again; it has recovered its full content" (Freud, 2010 [1918], p. 3083). The second ambivalence Freud analyses, then, is between the easy comfort of a life without stakes in perpetual peace and the vital urgency induced by the spectre of death in times of violent upheaval. Whether at the level of interpersonal abstraction

or macrosocial fantasy, death is an antidote for simulation and recalls an undeniable reality.

Even though the wars of Freud's lifetime now seem all but impossible, which would unburden macro-societies of late modernity of the ultimate reality check, the connection between death and reality persists in late-modern social thought. Bauman (1992) took the relation to death as playing a central role in the transition from modernity to postmodernity. The rational self-assurance of modernity takes death as an offence to its radical claims to the right and ability of self-determination. The instrumentality of modern thought focuses on bypassing obstacles, reducing many problems, like hazards, sickness or foolhardiness, to obstacles. Death is the ultimate obstacle. Postmodern time, however, is different. It does not have the unidirectional temporality of modernity with a clear past and future, so the problem is not to transcend the end but to orient oneself as a nomad in time and space. Untethered by linear temporality, the postmodern subject is immortal, living in an eternal present. Instead of striving against death, this subject strives against an eternal present by seeking extraordinary moments to provide some temporal orientation and the ability to construe biography as a project, if only after the fact. Similarly, Baudrillard (1993) saw in each higher order of abstraction a motion away from the reality of death. However, he also noted the contradiction this motion implied as, for example, in the fact that the commodification of time into standardized units of value in a production order is only possible if that time is limited. That is, the increasingly abstract and meaningless forms of value that appear as modernity progresses simultaneously obscure the reality of death while relying on it for symbolic efficiency and even intelligibility. Death reasserts its immediacy and undeniability whenever a system of signification loses coherence, and death is the only available means to recall the real when a code surpasses its own contingency.

The connection between death and the real is also apparent on a less theoretical, more experiential level as well. Death clarifies the status of one's relationship to the deceased and to other survivors in inducing grief. While there are taboos about speaking of the dead in certain ways, and while some can invest plenty of emotion and indignation in response to the death of those whom they had abstracted, the

void, the speechlessness, the pain of genuine grief is an assertion of the real that transcends any simulation. It is an experience that leaves no doubt of its sincerity, and perhaps the overwhelming sorrow is what inspires many to study topics that can defer or alleviate it, like medicine, religion and IR; perhaps it is an existential impulse to try to overwhelm the overwhelming.

Amending omissions and repressions

The above brief rumination on the real and death is important because it relates to two topics my story has touched too briefly and that deserve further thought and study. The first is the nature of the real, and the second is the role of violence, brutality and death in the story.

Although I have described the real either obliquely as the thing that simulation obscures and that death and grief recall, there are other, less morbid means of approaching it. While sorrow and grief are indicators of a meaningful relationship, they come at the end of a relationship that was meaningful, if not necessarily blissful or enjoyable. Such relationships are a worthy object of study for social research before they reach that stage. Such research might also reinforce the abhorrence toward war and brutality that seems an inevitable corollary of international society. It seems unlikely that international society at its present scale could evolve into a global society based on relations of symbolic exchange value, even in principle. Still, recalling the idea that meaning is derived from such relationships, that virtually everyone has experience of them and is bound up in them, and that this is explicitly true of others than the subject in question contemplating them might temper the brutality of international society with a dose of empathy, or at least sympathy. But such relationships and their meaning also resist depiction in many media and are not necessarily transparent at first hand, let alone at the second or third hand perspective in which many social inquiries are conducted. Studying such connections and their meaning in more cheerful terms and in varied contexts would, therefore, be as difficult as they would be worthwhile.

The second reason to recall death, brutality and grief in these last pages is that they featured far too briefly in the preceding chapters. The story here focused on

continuity more than interruption and upon the critical junctures at the level of signification rather than practice. Even a brief reflection on these junctures, however, will reveal to the extent they were also characterized by death and brutality. The first juncture between the counterfeit and production orders corresponded to the wars of religion, first in France and then throughout the continent. The second juncture was bookended by the most destructive wars ever.

Even within each order, when the code lost its symbolic efficiency or aura of inevitability, there was terrible violence. Examples in the counterfeit order would include religiously inspired uprisings and massacres of the Waldensians, the Fraticelli or the Hussites. The production order was similarly characterized by terrible uprisings arising from its own logic, especially against the differential access to standardized statehood, ranging from any number of fruitless attempts to resist the incursion of modern international society to the later massacres like the Sepoy and Boxer rebellions, which occurred when international society had already effectively become a universal system of representation. Although the will to resist late modern international society seems to have dissipated along with its meaning, there are also spatial gaps in its hyperreality, which are typically known as 'failed states' or 'areas of limited statehood' (Risse, 2013). Even some current violent social conflicts, especially those informed by teleologically religious views of society that resist compromise, like that between modern bureaucracies of international society and Islamism or those that display antagonists identifying with such religious views, as in the 'Middle East conflict', Sudan or Sri Lanka, seem informed by at least one semiotic system approaching the real and confronting simulation. Just as the greater capacity of the counterfeit order to approximate and contemplate the real corresponded to its considerable brutality, cracks in a simulation are likely to be violent and brutal.

That violence and brutality corresponded to the weakening of any system's integrity is a feature Baudrillard anticipated: "A revolution separates each order from its successor; these are the only genuine revolutions. ... Every system that approaches perfect operativity simultaneously approaches its own downfall" (Baudrillard, 1993,

pp. 3-4). Once a system attains hyperreality, the only means to transcend the suffusion of life with the code and its seductions is to be found in death.

For IR, however, where so many of us toil on the more or less explicit normative project of reducing the frequency and severity of mass brutality, this is a deeply unsatisfying narrative. If the choice within a system is between the relative primacy of meaninglessness or brutality, and each system is bound to end in a period of violence and slaughter, the study of international society is a fool's errand. Hopefully, though, this narrative has provided a couple of new questions that would make our effort somewhat less futile. The first would relate to the seductive power and symbolic efficiency of the signs of international society. After all, the signifiers of consumerism, even when meaningless, also can inspire fanatical devotion but rarely murder. Psychoanalysis, as field of study relating to the deconstruction of symbolic representations and the analysis of narratives might be informative. The second is how to anticipate and attenuate the collapse of a semiotic order of international society *ex ante*. The utopian goal of such research would be to move toward a system of representation based more on symbolic exchange that would hopefully allow for meaning without brutality. More pragmatically speaking, though, it might also be the case that hyperreality is not the end of international history and the next systemic collapse is inevitable, in which case we would still have cause to cushion the blow, even if the following order is no better than the one it replaces.

By way of a coda, I reflect briefly on the Dinka woman in South Sudan who was enamoured of the language of late modern international society without having much to lose or gain from it and how the narrative I have presented illuminates her condition. The first point to note is that the occasion for the Economist's reporter to travel to South Sudan, its new statehood, involvement in conflict and destitution are products of international society. International society gives South Sudan the possibility of being represented as a state, international oil markets and rules give form to the war with Sudan, and its destitution is only apparent on a relative scale, on the basis of a comparison with other states. More importantly, though, is that she is not a joke; it was only the context of the representations and the abstraction of the woman by the reporters and, tragically, herself that made her a comic figure. If

nothing else, I have made her appear less ridiculous by showing the absurdity of ridiculing her.

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