

DEFECTIVE POLITIES: A HISTORY OF AN IDEA OF INTERNATIONAL SOCIETY

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To Carlos Manuel Ventura de Oliveira Ramos

Abstract

This thesis is about the idea of defective polities. It addresses two important understandings in the literature which inform current theory and practice surrounding failed states. First, the thesis addresses the conventional standpoint that the end of the Cold War generated a new challenge for international society, widely known as the challenge of failed states. It aims to counter the ahistoricism of the literature on failed states in IR and cognate fields by showing that the nature of the issue of 'failed states' precedes the emergence of the concept in post-Cold War international society. Second, we respond to the view that international law/the doctrine and norm of state sovereignty have been essentially instruments in the hands of the most powerful members of international society, often used to justify practices of imperial and colonial nature. According to this perspective international law/state sovereignty explain or are crucial in the perpetuation of the idea and category of defective polities. By looking at the history of the relationship between the doctrine and norm of state sovereignty and the idea and category of defective polities, our aim is to show that these views about the role of international law are, to a great extent, misleading.

Bearing in mind the possibility that concepts perform functions, the central hypothesis this thesis will be testing is the following: failed states are the latest of a number of concepts *prevalent* in international society that refer, or did so in the past, to the idea and category of defective polities. Although this argument implies a sense of continuity, the history of this idea is characterised by an evolving normative context. Thus, this thesis combines an English School approach with history of ideas, a meta-theoretical choice that is simultaneously sensitive to notions of continuity and change. This framework involves an attempt to: (a) identify and comprehend these concepts; (b) understand what functions these concepts served; (c) shed light on the kind of motives and legitimating arguments used by the actors uttering the concepts; and (d) understand if and how conceptual changes are related to normative changes in international society.

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Introduction: Defective Polities and International Society

This thesis is about the history of the idea that certain peoples/political communities are incapable of or unsuitable for self-government, hereafter referred to as *defective polities*. We look at the political and moral international context in which a number of concepts, all expressions of the idea of defective polities, were uttered by statesmen, diplomats, theologians, philosophers, and scholars. This is not primarily a comparative study that attempts to identify the merits and shortcomings of these various concepts. Likewise, the aim is not to put forward an explanatory theory of why some political communities were/are defective. Instead, the general purpose is to understand and shed light on the specific historical contexts in which these various concepts were uttered, in order to show that, despite their differences and particularities, they were all manifestations of the same idea of defective polities. Furthermore, the aim is to provide a critical assessment of the idea of defective polities, and to evaluate its “power” throughout the history of international society.

While the idea of defective polities is the overarching theme of the thesis, our point of departure is the predominant, contemporary expression of that idea, i.e. the concept of failed states. Since its emergence in the early 1990s, this concept has been a powerful one in international society. For example, the magazine *Foreign Policy*, one of the most widely read publications of international affairs, issues annually since 2005 the ‘Failed States Index’, in collaboration with the Fund for Peace. In it are ranked dozens of states according to a complex set of data carefully updated, analysed, and refined every year. Afghanistan and a number of African countries like Sudan, Chad, Zimbabwe or Democratic Republic of Congo (DRC) traditionally dominate the top ten, with Somalia invariably occupying the top spot. The purpose of the rankings, according to its publishers, ‘is not to claim that all states in the list are failed,’ but to ‘provide a guide to those states at serious risk of state failure’, or ‘in danger of collapse’ (Foreign Policy, 2005). The criteria by which these states are ranked comprises: economic benchmarks such as ‘uneven development’ and ‘economic decline’; institutional (in)capacity, including the status of ‘the security apparatus’ and availability of ‘public services’; and humanitarian

standards such as 'refugees,' 'demographic pressures', and 'human rights' (Foreign Policy, 2009; 2011). Two features become apparent even after a brief overview of these rankings. One is the emphasis on the lack of capacity of these states for self-government. As exemplified in the definition of state failure that accompanies the publication of the rankings, 'attributes of state failure' include 'an inability to provide reasonable public services', or 'the inability to interact with other states as a full member of the international community.' This highlights the other feature: 'failed states' are being judged and compared to those states that perform well in the various areas (e.g. Rotberg, 2003a: 3-5). It denotes a spectrum, with successful/capable states on one end, and failed states on the other.

Since the early 1990s plenty has been written about failed states, the contemporary manifestation in international society of the idea of defective polities. However, there is very little in the literature about the history of this idea. Save a few exceptions, one is left only with some clues and hints about "how did we get here." It is not the case that IR has been oblivious of history. Nevertheless, this is generally true when it comes to the literature on failed states in IR and cognate fields. This neglect of history seems to derive, at least partially, from the immediate connotation of the concept of failed states with the post-Cold War, because it was then that the concept gained international prominence. Moreover, this neglect of the historical background of the issue also brushes aside questions about the legacy of external interference in the affairs of these peoples/political communities. The aim here is to fill in this gap by showing that the history of the general idea of defective polities long precedes the emergence of the specific concept of failed states. The proposition is to study this topic through history of ideas. This intellectual field offers the lenses by which to look at the historical nature of contemporary problems, but it has also challenged the assumption that certain issues have always been with us, that all questions of mankind are timeless. In other words, this intellectual field is simultaneously sensitive to notions of continuity and change. The importance of accounting simultaneously for continuity and change is justified by the need not to overemphasise novelty while ignoring history, but also to avoid simplistic associations between present and past for the sake of accentuating aspects of continuity (Bain, 2011: 31-38).

History, International Law, and Echoes of the Civilising Mission

The meta-theoretical approach of this thesis draws substantially on the English School (ES). Within the ES, Bain (2003a) offers some valuable insights about the historical background of the issue we refer to as defective polities, and its connections with contemporary practices in international society. Bain (2003a: 192) makes the case that present-day international practices of trusteeship associated with so-called failed states are manifestly connected with paternalistic notions and specific visions of how political communities should be organised. In his view, 'trusteeship cannot escape its imperial past, no matter how enlightened or well-intentioned it might be, because it belongs to a mode of conduct that is imperial by its nature.' In this logic, he determines that trusteeship is fundamentally incompatible with the ideas of human dignity, independence, and equality of all human beings that today form an important part of the normative framework of international society. As Bain (2003b: 67, 70) puts it, the practice of trusteeship 'sanctions the rule of one man over another, in lands that are not his own, so long as the power of dominion is directed towards the improvement of the disadvantaged'. Thus, trusteeship 'stands rather uneasily in an international society constituted by sovereign states that are equal in respect of authority and jurisdiction.' Nevertheless, these practices have persisted, in Bosnia and Herzegovina, Kosovo, East Timor, Afghanistan, and Iraq, to name a few examples of these 'new protectorates' (Mayall and Oliveira, 2011: 2). As Bain (2007: 181) notes, contemporary international practices, often justified with the 'promotion and protection of fundamental human rights,' such as International Territorial Administration (ITA)/international statebuilding missions, represent a 'subjection to alien rule.'

How to make sense of the perpetuation of these practices of imperial nature? On the one hand, it is reasonable to assume that values such as human dignity, independence, autonomy, non-interference, and equality of all human beings form an important part of the normative framework of contemporary international society. On the other, the perpetuation of some practices of inherent imperial/colonial nature suggests that those principles,

reflected by the norm of state sovereignty, are constantly violated or sidelined. Is this evidence that moral principles and rules in international society matter very little? A possible answer to this apparent contradiction is that principles and rules do matter, but the most powerful members of international society have used international law as an instrument in the pursuit of their interests and agendas, often of an imperial nature.

This possibility is supported by a few recent contributions to the debate. One example is Simpson (2004), who argues that the Congress of Vienna (1815) represented the first crucial constitutional moment in the history of international society that institutionalised legalised hierarchies between states. In particular, it established in international law two categories: (1) the Great Power status and the responsibilities in the management of international order associated with that status; and (2) the outlaw state, 'estranged' from and 'demonised' by international society 'on the basis of its moral characteristics or internal politics.' This does not mean that the principle of state sovereignty is irrelevant. Simpson (2004: 9, ix-xi) emphasises the 'role of sovereign equality in establishing the originating 'groundnorms' of the international legal order'. The key point is the concern of the Great Powers in 'willing into existence new legal regimes in moments of constitutional crises, invoking a community of interests/the interests of humanity, to ensure their actions are in accordance with international law.'

Another example is Anghie (2005: 3, 312), who argues that the civilising mission and the consequent political, economic and cultural subjugation were central in the formation of international law and its founding concept, sovereignty. Anghie examines the historical relationship between international law and the Third World, which he defines as 'the contemporary term for those non-European societies and territories which were colonised from the sixteenth century onwards by the European Empire, and which acquired political independence since the 1940s.' Looking at different phases of the 'colonial encounter', he argues that international law has always been driven by the 'civilising mission'. He concludes that 'international law remains oblivious to its imperial structures even when continuing to reproduce them.'

Yet another example is Wilde (2007: 41-43) who, by looking at the 'colonial analogy', explores the way 'mainstream international policy discourse has used the "international", i.e. international organisations and

international law, to legitimise contemporary instances of ITA.¹ According to Wilde, the arguments that justify ITA are the following: (a) it rests on lawful authority as opposed to colonialism; (b) it consists of the implementation of universally validated policies and not of the agendas of particular states; and (c) is carried out by humanitarian international organisations rather than by individual states with particular motives for action. These arguments which constitute the normative kernel behind the legitimation efforts of contemporary instances of ITA represent an attempt to draw a distinction with colonialism. Yet Wilde (2008: 252) contests the 'post-colonial label' of ITA. In his view, ITA is often a statebuilding enterprise that involves very specific ideas of how states ought to be built and governed, namely 'democracy,' 'rule of law', and 'free-market economy', and thus it has close similarities with the civilising mission and the colonial era.

These contributions that explore the history of the relationship between imperialism/colonialism and international law, suggest that international law and the principle of state sovereignty are inherently imperial/colonial in their nature. State sovereignty, the key norm of international society, not only sanctions inequality but causes and (re)produces it as well. In this perspective, the principle is not only about equality, justice, autonomy, and pluralism. It is also, and more significantly, an arrangement that promotes an international order slave to the imperial appetites of the Great Powers/hegemonies of international society. State sovereignty sanctions inequality, injustice, dependency, and an ethically questionable type of solidarism. This view contrasts patently with a notion that was at the basis of another ES study about the topic, namely that 'Third World states are to an exceptional degree... beneficiaries of international morality and international law' (Jackson, 1990: ix).

Thus, the main purposes of this thesis are essentially two. One is to trace the history of the idea of defective polities, by identifying and understanding the conceptual manifestations of that idea throughout the history of international society. The intent is to shed light on the "power" of this idea and the functions it served. The other main purpose of the thesis is to address and discuss a number of arguments regarding the relationship between imperialism/colonialism and international law in international society, in particular the doctrine of state sovereignty. By

addressing these arguments, the aim is to understand the extent to which the doctrine of state sovereignty has played a role – in the view of a number of scholars a key one – in the perpetuation of the idea we are concerned with, and related international practices.

Questions and Hypotheses

Beyond the assumption that the concept of failed states reflects or describes a concern with a problem in international society, more important for the purposes of this project is the perception that it represents a category.² In this regard, it should be noted that one of the central claims of the Cambridge School (CS) of conceptual history – which informs the meta-theoretical framework of this project – is that concepts perform political and social functions. This point has been highlighted by scholars in relation to the concept of failed states. According to Jones (2008: 181-182), it is striking the way a ‘category used in the policy making sphere has been so readily absorbed in academic analysis with little concern or critical reflection’. He argues that very small steps have been taken in critically analysing ‘the very notion of the “failed state” and the underlying assumptions, in situating the discourse itself and its ideological character in historical terms, and emphasising its current role in legitimising intervention.’

Regarding the functions or the political consequences of the existence of this category, Boas and Jennings (2005: 387) argue that despite the fact that ‘the policy adoption of “failed states” is quite recent, intellectually speaking the concept has been around for a long time.’ Thus they see failed states as ‘the most recent in a long list of modifiers that have been used to describe or attempt to explain why states residing outside of the geographical core of Western Europe and North America do not function as “we” think they are supposed to.’ Yet perhaps a consequence of the overtly inward character of many IR debates, Boas and Jennings refer to a number of Cold War and post-Cold War concepts, e.g. neopatrimonial, lame, premodern, which were never really prominent in international society beyond some restrict academic/intellectual circles, the exception being failed states. Bilgin and Morton (2002: 55-57) locate this category in the context of the culmination of a broader set of concepts and approaches of the social sciences rooted

distinctly in the logics of the Cold War. These practices consist of the representation of post-colonial states 'around elements of deficiency or failure', e.g. quasi-states and rogue states.³ They suggest that despite the fact these labels refer to different characteristics of states, common to all is that they 'enable certain policies which serve the economic, political and security interests of those who employ them.'

Bearing in mind the possibility that the concept of failed states represents a category, and that concepts perform functions, the central hypothesis this thesis will be testing is the following: failed states are the latest of a number of concepts *prevalent* in international society that refer, or did so in the past, to the idea of defective polities. A number of questions/themes follow from this central hypothesis. These include an attempt to: (a) identify and comprehend these concepts; (b) understand what functions these concepts served; (c) shed light on the kind of motives and legitimating arguments used by the actors uttering the concepts; and (d) understand if and how conceptual changes are related to normative changes in international society. In this regard, this study is interested in comprehending how the history of the doctrine and norm of state sovereignty relates with the history of this idea and category, namely with the latter's perpetuation. Beyond seeking to counter the massively ahistorical take in the literature on failed states, here lies much of the relevance of this study.

Thesis Outline and a Note on Sources

This thesis is organised as follows. Chapter 1 looks at the concept of failed states. Only by shedding light on the contemporary expression of the idea we are interested in is it possible to enter the endless realm of international history in search of its prevalence. Hence, this chapter provides an overview of the history of the concept of failed states since its emergence in international society. The aims are to flesh out the questions and normative themes that characterised the issue; to shed light on the kind of interests and values involved; and to illustrate how the concept of failed states not only has a meaning but performs certain functions. Another aim is to show that the burgeoning literature on failed states in IR and cognate fields is strikingly ahistorical.

Chapter 2 discusses the meta-theoretical framework of this project. The aim is to explain and justify the choice of combining the English School (ES) framework with a number of insights from international conceptual history/history of ideas. It addresses the concept of international society, the related notions of understanding and interpretation in the study of international society, and the role of norms and rules in international society, especially its foundational norm of state sovereignty. Related with this normative dimension, the chapter reflects on the notion of practice(s), and the issues of causality and change in the ES. Given the choice of a historical-empirical approach, it also addresses the legacy of the ES when it comes to the study of international history in general and the history of international society in particular, and clarifies the lenses through which we will look at the history of this idea in international society. The chapter then provides an overview of the various schools of conceptual history, before discussing in more detail the Cambridge School (CS) of conceptual history, from which this project draws a number of important meta-theoretical insights. It explains the choice of combining an ES approach with history of ideas/international conceptual history, and how this move is compatible with ES cognitive goals. It also outlines what international conceptual history can offer to the study of the history of international society and the political and social concepts that shaped it, namely questions of continuity and change.

The following chapters trace the history of the idea and category of defective polities in international society. The aim of these chapters is essentially twofold: (a) to identify and comprehend, in the history of international society, the concepts that expressed that idea, their political and moral context, and the functions the concepts served; and (b) address a set of arguments in the literature about the role of international law, particularly the principle of state sovereignty, as a key element/ cause behind the perpetuation of that idea and category, and respective international practices.

The sources of this thesis are divided into primary and secondary sources. Within the former are included all the original documents, from official strategies of states and international organisations to important works by philosophers and intellectuals that shed light on the nature of the idea and concepts that are relevant for our purposes. Regarding the secondary

sources, these can be broadly divided into four groups. The first is the ES literature, which includes theoretical discussions about the concept of international society, the role of morality, norms and rules in international society, and the debates about the ES approach to history. Evidently, it also includes a number of ES studies about the history of international society and the history of its imperial expansion. This thesis also draws from the literature of history of ideas/international conceptual history, in particular the Cambridge School of conceptual history. Moreover, there is research within the field of history of ideas about the idea and concepts we are concerned with, as well as other ideas that are relevant for our purposes. Another importance source is international history, namely history of European empires and the history of international law. Finally, to understand the nature of the concept of failed states, this thesis is informed by the literature on failed states in IR and cognate fields. This includes not only the literature that employs explicitly the concept, as well as a number of related/analogous ones, e.g. weak states, collapsed states, quasi-states, fragile states. It is also a reference to the existing work concerned with issues often associated with failed states, including threats to international order/security/peace or cosmopolitan notions of international justice that derive from civil wars or severe humanitarian violations. Likewise, it includes the body of work that focuses on the international practices commonly related with the problem of failed states, including humanitarian intervention, international development, peacekeeping, peacemaking, peacebuilding, nationbuilding, statebuilding, conflict resolution/prevention, and ITA.

Chapter 1 - Failed States: The Clout of a Concept

The end of the Cold War left a band of failed and weak states stretching from the Balkans through the Caucasus, the Middle East, Central Asia, and South Asia. State collapse or weakness has already created major humanitarian and human rights disasters during the 1990s in Somalia, Haiti, Cambodia, Bosnia, Kosovo, and East Timor. For a while, the United States and other countries could pretend these problems were just local, but September 11 proved that state weakness constituted a huge strategic challenge as well.

Francis Fukuyama (2004: x).

1.1 Introductory Remarks

To shed light on the history of the idea of defective polities, it is first necessary to comprehend the most prominent contemporary expression of that idea, i.e. the concept of failed states. Only by understanding the present nature of the issue it is possible to enter the endless realm of international history in search for the concepts that represent the perpetuation of this idea in international society. Thus, the main purposes of this chapter are: to map the rise of the concept of failed states over the last two decades; flesh out what kind of issues and normative debates are associated with it since its emergence; and illustrate how, in relation to the claim that those states are incapable of or unsuitable for self-government, the concept of failed states not only has a meaning but it performs certain functions.

In mapping the history of the concept of failed states in international society over the last two decades, this chapter also provides an overview of the kind of academic debates that the issue generated. In particular, one of the goals is to show that the burgeoning literature on failed states in IR and cognate fields is strikingly ahistorical. The final section of the chapter addresses and discusses a scholarly approach to the topic that can be termed 'the liberal peace critique.' Over the last two decades, this scholarly approach attempted to capture and deconstruct the overarching ideas,

interests and values that informed the international involvement in the so-called failed states.

1.2 A 'New World Disorder'

It is difficult to determine whether the concept of failed states was first coined in the policy-making sphere or in academic circles. The first scholar to use the term 'state failure' was probably Migdal (1988: 4-9, 203-204), when looking back at what he saw as 'the inability of the Egyptian state under Nasser to operate the changes it envisioned in society and to consolidate social control.' Migdal asked 'why have so many Third World states been so ineffective in accomplishing what their leaders and others had so eagerly expected of them.' A few years earlier, Jackson and Rosberg (1982) questioned 'why Africa's weak states persist.' They argued (1982: 17, 21) that 'juridical statehood', i.e. 'the existence of mutual rights and obligations that form the cornerstone of the international society of sovereign states, including the right of a country to exist and not to have its jurisdiction violated, and its duty not to violate the rights of others', was 'more important than empirical statehood in explaining the persistence of states' in Sub-Saharan Africa. Jackson (1990: 1) explored this issue further by characterising these states as 'quasi-states', i.e. those who lack the 'marks' and the 'merits' of 'empirical statehood.'

The concept of failed states emerged in full strength after the Cold War. It was Madeleine Albright, at the time the United States (US) Permanent Representative to the United Nations (UN), who lifted 'failed states' to 'fame'. By the occasion of the killing of four US servicemen in Somalia, she explained in *The New York Times* (1993) the US involvement in the UN effort to restore 'that failed state.' She justified the decision to remain in Somalia to prevent the country from falling 'back into the abyss' and to 'help lift the country and its people from the category of a failed state into that of an emerging democracy. For Somalia's sake, and ours, we must persevere', she wrote. The price of failure would be the continuation of famine and civil war, and a corresponding threat to international society, 'because anarchy may produce refugees, uncontrolled arms peddling and targets of opportunity for

terrorists and their state sponsors.’ A year later in his well-known article ‘The Coming Anarchy’, Kaplan (1994) drew an alarming picture of West Africa, in which ‘disease, overpopulation, unprovoked crime, scarcity of resources, refugee migrations, the increasing erosion of nation-states and international borders, and the empowerment of private armies, security firms, and international drug cartels’, would wreak havoc a whole continent. This scenario of ‘several West African nations collapsing at once’ would, in Kaplan’s predictions, emerge as a major foreign-policy issue for the US. His article was widely cited in speeches by US President Bill Clinton and other administration officials (Del Rosso, 1995: 197).

This anxious picture only expresses one of the dominant sentiments of the time. This moment was also interpreted as one of opportunity. While President George H. W. Bush announced ‘A New World Order’ (Bain, 2011: 54), the Clinton administration put forward the concept of ‘democratic enlargement’ as the new post-Cold War strategy aimed at building a world order based on open economies and democratic states (Mayall and Oliveira, 2011: 6). Also in the UN, this period was seen as one of opportunity for the organisation to perform a different role, a much more active one, in safeguarding international order, peace and security. In this context, the issues of state failure and severe human rights violations soon became a priority for the organisation. The resolve to address these issues through a comprehensive approach was expressed clearly by UN Secretary-General Boutros Boutros-Ghali’s ‘An Agenda for Peace’ (1992). Boutros-Ghali also published ‘An Agenda for Development’ (1994) and ‘An Agenda for Democratisation’ (1996: 2), where he emphasised that most UN peacekeeping mandates ‘include both the restoration of democracy and the protection of human rights.’ This tripartite objective of peace, development, and democratisation would become common denominators in the international efforts to address the issue of state failure.

From its creation until 1989, the UN deployed five peacekeeping missions to deal with intrastate conflicts. From 1989 to 2000, that number reached thirty eight (Lacina, 2004: 192). A landmark in the UN’s efforts to perform a new role in addressing severe human rights violations was the UN Security Council Resolution 688 (1990). It stated that the treatment given by the Iraqi government to its Kurdish population constituted a ‘threat to

international peace and security', according to Chapter VII of the UN Charter (McCormack, 2007: 79). This was the first time that a UN member state's repression of its own population was declared by the Security Council to have international consequences for peace and security (Wheeler, 2000: 168). This resolution created an exception to the principle of non-intervention by consenting external coercive actions in matters that were, at least in principle, the exclusive jurisdiction of the state (Helman and Ratner, 1993: 9). As far as we are aware, there were no references to Iraq as a failed state in this period. However, the portrayal of events taking place in the internal realm of a state as a threat to international peace and security became a widespread practice related with humanitarian tragedies in those states associated with the category of 'failed'. During this decade, the UN would get involved in a number of peacekeeping, statebuilding, and territorial administration missions in Somalia, Liberia, Democratic Republic of Congo (DRC), Cambodia, Bosnia and Herzegovina, Kosovo, East Timor, to name but a few examples. All these missions were supported by UN Security Council resolutions passed under Chapter VII of the Charter. Illustrative of the kind of deep international commitment in these operations, in Cambodia the UN was responsible not only for humanitarian and peacekeeping tasks but it also had control of foreign affairs, finance, and internal security. In this context, the UN's inaction in the face of the genocide in Rwanda was a target of major international criticism, and it also came to highlight the selective nature of these international practices (Mayall and Oliveira, 2011: 6, 11).

Other international/multinational organisations came to develop their own role in addressing state failure. The international financial institutions, namely the International Monetary Fund (IMF) and the World Bank (WB), developed their own concepts of state-building (Goetze and Guzina, 2008: 325-326). In 1997, the WB published the renowned 'World Development Report: The State in a Changing World.' As explained by its authors, the report was 'devoted to the role and effectiveness of the state: what it should do, how it should do it, and how it can improve in a rapidly changing world.' Essentially, it argued that the ability of states to enforce the rule of law was a

vital condition for economic development, whereas 'the absence of such rules is a defining feature of a failed state' (World Bank, 1997: 161).⁴

For the European Union (EU) and its Common Foreign and Security Policy (CSFP), the main concern was that, with the collapse of the USSR, the Eastern European states coming out of the Soviet bloc could create a zone of instability in the borderlands of the EU (Winn and Lord, 2001: 174-179). In the words of Jacques Delors (1994: 3), at the time President of the European Commission (EC), 'outside Europe many regions are witnessing conflict and the disintegration of political structure. What there is, then, is the acceleration rather than the end of history. Instead of a new world order, a new world disorder is being presaged.'⁵

Likewise, the Northern Atlantic Treaty Organisation (NATO) shifted an important part of its new mission towards the issue of failed states (Asmus et al, 1992). Faced with a struggle for adaptation to the post-Cold War world, the future of NATO generated an important debate about whether or not, after the collapse of the Soviet Union, the organisation still had a purpose (Kratochwil, 1989). NATO recognised this necessity to adapt to a new international context in its 'London Declaration on a Transformed North Atlantic Alliance' (1990), as well as in its 1991 Strategic Concept. The latter asserted that the 'new risks' were more likely to originate in potential state failure situations, arising from 'the serious economic, social and political difficulties, including ethnic rivalries and territorial disputes, which are faced by many countries in Central and Eastern Europe.' Reaffirming its commitment to the 'common values of democracy, human rights and the rule of law', the Strategic Concept identified crisis and conflict in the allies' Southern and Eastern borders as the biggest obstacles to enforce those values.⁶

In the context of normative debates and tensions between the principle of state sovereignty and 'the evolving international norms related to human rights and the use of force' (Welsh, 2004: 1), it was possible to observe a concerted move in some segments of international society in defence of the contingent nature of state sovereignty. This, Del Rosso (1995: 179) argued without any historical evidence to support his claim, contrasted sharply 'with previous eras when sovereignty was indivisible and absolute.'

Two developments reflecting this move towards state sovereignty as contingent were the idea of sovereignty as responsibility – of which an early advocate in academia was Deng (1996) – and the expansion of what represented a threat to international peace and security under chapter VII of the UN Charter (Welsh, 2004: 2). In this logic, states should be held internationally responsible for protecting their citizens' basic human rights, and also for avoiding internal crises turn into threats to international peace and security.

Another related development was the rise of the concept of human security. The 1992 UN Security Council summit-level session proposed expanding the concepts of human rights and human security and revisiting UN Charter's Article 43 on a UN standing army (Holm, 2001: 361). The formula human security, as Henk (2005: 92-93) explains, aimed to shift the focus of security from states/territories and armaments to a notion centred on people and sustainable human development. It occupied a central place in the 1993 and 1994 Human Development Reports, published by the United Nations Development Program (UNDP).⁷ A key figure in the development of the concept of human security was the scholar and UN consultant Andrew Mack (e.g. Mack, 2005). Among many other studies and reports, he was the main author of the section on global security in 'We the Peoples: The United Nations in the 21st century' (2000: 9-17), the report of the Secretary General to the Millennium Assembly.

The emphasis on human rights and a cosmopolitan notion of justice were associated with the cause of liberal internationalism. A famous proclamation in this regard was the speech in Chicago by British Prime Minister Tony Blair (1999), which formed the basis of what became known as the 'Blair Doctrine'. Blair argued that 'the most pressing foreign policy problem we face is to identify the circumstances in which we should get actively involved in other people's conflicts.' This was as much an issue of interest as of principle:

In the end values and interests merge. If we can establish and spread the values of liberty, the rule of law, human rights and an open society then that is in our national interests too. The spread

of our values makes us safer. As John Kennedy put it 'Freedom is indivisible and when one man is enslaved who is free?'

The task of securing international order was associated in the UN realm with the goal of promoting a cosmopolitan notion of justice, namely economic development and human rights. In his well-known article for *The Economist* titled 'Two Concepts of Sovereignty', Annan (1999) defended the priority of peoples' sovereignty over the sovereigns' sovereignty. In the context of the interventions in Kosovo and East Timor, he noted the redefinition of sovereignty in international society by the 'forces of globalisation and international co-operation' towards a much more cosmopolitan vision of the norm. Thus, international peace and security, and the protection of human rights globally were gathered within an overarching political project (McDonald, 2002: 278).

As Annan predicted when he wrote that this doctrine, at least 'in some quarters' would arouse 'distrust, scepticism, even hostility', the idea of sovereignty as responsibility did not go unchallenged. On the contrary, it raised great tensions in international society. Annan noted how in the case of Kosovo, 'a group of states intervened without seeking authority from the United Nations Security Council.' Classified as 'illegal' by both Annan and the Independent International Commission on Kosovo, NATO's intervention gave rise to a major debate about legality and legitimacy in international society and the gap between the two, as well as the question of whom, in international society, should be the judge and enforcer of international norms (Cunliffe, 2005: 42). NATO member states justified the intervention with the attempt to prevent an imminent humanitarian catastrophe and to put a halt to the ethnic cleansing in Kosovo, which 'could not be allowed to stand in a civilised Europe and that it posed a long-term threat to European security'. The language of Security Council resolutions 1199 and 1203, passed under Chapter VII of the Charter, was used by leaders of NATO member-states to defend the legitimacy of the intervention (Wheeler, 2000: 265-276). This change in UN Security Council practice which, as Wheeler (2004: 29) puts it, was 'pushed by leading Western states that sought to secure UN legitimacy for interventions to protect civilians in Iraq, Somalia, Haiti, and the Balkans',

was often faced with the opposition, sometimes the scepticism of China and Russia (Mayall and Oliveira, 2011: 15-16).

The following words by India's Permanent Representative to the UN, Nirupam Sen, are a prominent example of resistance to the doctrine of sovereignty as responsibility. He declared that

in recent years... the developmental activities of the UN have diminished while the regulatory and punitive aspects have acquired prominence. The developing countries are the target of many of these actions which has led to a sense of alienation among the majority of UN Member States [...] The Security Council's legislative decisions and those on the use of force ... appear as an arbitrary and alien power: this is an alienation not of the individual or class but of countries.

As Cunliffe (2005: 43) notes, these words bear 'the imprint of Third Worldist politics, principled attention to issues of self-determination, development and non-intervention.' Another example of opposition to the doctrine of humanitarian intervention is the declaration of the foreign ministers of the non-Aligned countries in April 2000, shortly after NATO's intervention in Kosovo: 'we reject this so-called "right" of humanitarian intervention, which has no legal basis in the UN Charter or in the general principles of international law.'

That humanitarian intervention remained a controversial norm (Welsh, 2004: 2) in international society is an undeniable fact. Yet the position of the so-called emerging powers/developing states cannot be defined simply as one of opposition/resistance to this norm. It was far more ambivalent and complex. For example, seven non-NATO developing states voted against a UN Security Council resolution sponsored by Russia that condemned NATO's illegal bombing of Yugoslavia (Wheeler, 2004: 44-45). Another important example is the considerable manpower contribution from India, Pakistan and South Asian countries to UN peacekeeping/peacebuilding missions (Cunliffe, 2005: 45). Yet another example is the way African states and organisations, partly motivated by their natural distrust regarding outside interference in African affairs, took in their hands the issue of conflict in the region – although in a rather limited fashion.

The deployment of an African Union (AU) force in Darfur is a prominent case (Clapham, 2011: 73-82).

Indeed, it is also not possible to talk about a clear position of Great Powers such as China or India in relation to the issue of state failure and related international practices. In the case of China, the scepticism regarding the doctrine of sovereignty as responsibility, and the distrust regarding international actions of an imperial nature, was tempered by China's concern of being part of the Great Powers' decision making beyond the UN Security Council (Suzuki, 2011: 83-93). In particular, Suzuki (2011: 93) noted the Chinese elites' reluctance to use the term 'state failure' due to the obvious connotations with 'Western intervention.' Yet there was not a total rejection of the need to address state failure, but a defense of the view that the issue ought to be dealt with in the UN realm. The Chinese participated in UN peacekeeping operations in East Timor, Lebanon, and Haiti (Suzuki, 2011: 93-102). In the case of India, Ghandi's motto that 'good governance is no substitute for self-government' still seemed to hold sway after the Cold War, and thus reinforced India's commitment to a pluralist international society. However, as mentioned above, India's armed forces participated in numerous peacekeeping operations (Ray, 2011: 108-120).

The centrality of the issue of failed states in international society generated a burgeoning interest in IR and cognate fields. Explanations for the rise of the issue of failed states after the Cold War thrived. The most common is the idea that the two superpowers provided stability and material support to several Third World countries. With the demise of the superpower rivalry, Third World states lost the political, economic and military support received during the Cold War from at least one of the superpowers (e.g. Holm, 2001: 360; Andersen, 2007: 22). A related explanation is the supposed rise in the incidence of civil wars (Goodhand and Hulme, 1999: 13-23), branded by Van Creveld (1991) as 'new wars' characterised by 'low-intensity conflicts', tribal, religious or ethnic in their nature. These views about the novelty of the 'new wars', and in particular the notion that the post-Cold War period witnessed a rise in the number and intensity of civil wars, was challenged by a number of authors. While Berdal (2003: 483) noted the 'perfunctory, uncritical, and ahistorical manner in which this claim is often

presented', other scholars showed that, despite the complexity of defining a civil war, the number of wars, including civil ones, actually declined since the mid-1980s (e.g. Mack, 2005: 147-158; Call and Cousens, 2008: 6). Contradicting to a certain extent the generality of the literature that sees failed states as an international problem that emerged essentially after the Cold War, Zartman (1995: 3) mapped the phenomenon of state collapse as having occurred in two waves. The first of these waves came 'toward the end of the second decade of independence, when regimes that had replaced the original nationalist generation were overthrown, carrying the same state structure with them into a vacuum', as with cases of Chad, Uganda, and Ghana.

Other explanations focused on perception. As a result of the decline of superpower rivalry, the superpowers ceased to be supportive of autocratic regimes whilst turning a blind eye to their governance records and treatment of their citizens. Thus, civil wars and severe human rights violations were no longer a secondary issue, and 'started to receive a flurry of media, policy and scholarly interest' (Lacina, 2004: 191-192). Widely regarded as contributing to this change of perception was the role of globalisation and technology, namely the 'CNN effect' (Krauthammer, 2004), despite the numerous definitions and range of phenomena associated with it (Strobel, 1996: 357-358).

Generally, the legacy of colonialism was secondary at best in the debates about the reasons states fail. One exception is Mayall (2005: 37, 56-57), who explored briefly how the universalisation of the sovereign state and of principles such as territorial integrity and non-interference is a 'colonial export', a result of imperial conquest. This, according to Mayall, played a substantial role in the failure of these new states – that previously adopted other forms of government and social organisation – 'to provide the most basic public goods, namely law, order and minimal welfare.' Against this picture, Herbst (1997: 121) noted that even 'trenchant critics' of colonialism recognise that European rule had positive effects. Chief among these were the creation of states and the replacement of numerous forms of political organisation with 'clearly defined (albeit inappropriate) boundaries.'

According to Sabaratnam (2011), 'the merging of peace studies and security studies from the late 1980s onwards, its engagement with theories of human need and social grievances informing analysis of armed conflict, coupled with the new departure in UN thinking' regarding intrastate conflict, explains the huge interest in research on conflict prevention and resolution. Major studies included the UN Research Institute for Social Development' (UNRISD) War-Torn Societies Project (1994-1998) and the Carnegie Commission on Preventing Deadly Conflict (1994-1999). These studies represented the continuation of the legacy of scholars such as Johan Galtung, who for decades published prolifically on the topic of peace and conflict. The economic motivations behind the beginning and perpetuation of civil wars also deserved its deal of attention in academia (e.g. Berdal and Malone, 2000).

Academics and pundits advanced definitions for failed and collapsed states (Zartman, 1995: 1, 6), or even other sets of adjectives to classify these states (Gros, 1996: 458-461). Zartman (1995: 1, 6) defined a collapse of a state as 'a situation where the structure, authority (legitimate power), law, and political order have fallen apart.' According to him, the twin feature of state collapse, also understood as 'the breakdown of good governance, law, and order', is societal collapse, defined as 'the extended breakdown of social coherence'. In this perspective, a collapsed state ought to be seen 'as a rare and extreme version of a failed state'. Afghanistan, Algeria, Angola, Bosnia, Burundi, Chad, DRC, East Timor, El Salvador, Ethiopia, Guatemala, Haiti, Kosovo, Liberia, Mozambique, Sierra Leone, Somalia, Sudan, and Uganda, were usually among the cases of failed and collapsed states identified in the literature. Despite the emergence of other concepts such as 'complex political emergencies', 'low-income countries under stress' as used by the WB, or 'fragile states' as adopted in recent years by the British Department for International Development (Foreign Policy, 2005) and the US Agency for International Development (USAID, 2005), failed states was the dominant concept to refer to the crisis of Third World states.

Echoing the concerns of policy makers about all the problems associated with state failure, from humanitarian tragedies and refugee flows to armed conflict and economic privation (Deng, 1995: 207), it seemed

consensual that this 'disturbing new phenomenon' would pose a 'different' challenge (Helman and Ratner, 1993: 3). The view that domestic and international order were 'inextricably intertwined' (Ayoob, 1996: 37), and that these conflicts had important regional and international consequences (Wallesteen and Sollenberg, 1998), became widespread. In these attempts to 'manage global chaos' (Crocker et al, 1996), and study failed and collapsed states in order to 'learn how to put them back together' (Zartman's, 1995: 267), the issue of intrastate war or 'ethnopolitical conflict' (Gurr, 1994), including conflict prevention and resolution, generated huge interest (e.g. Crocker et al, 1996; Gurr, 1996; Lund, 1996; Rotberg, 1996). It should be noted that it is virtually impossible to find a consensus around the notions of peacekeeping, peacemaking, peacebuilding, nationbuilding, and statebuilding, either within academia or in the policy-making sphere. These are essentially contested concepts (Berdal, 2000; 2009: 16-17). Yet these terms reflected an evolution towards a more expansive and comprehensive engagement, a more lasting international footprint by the international actors involved (Goetze and Guzina, 2008: 139), from the traditional peacekeeping operations to more ambitious and lengthy nation/statebuilding enterprises. This led scholars to refer to several generations of peacekeeping (e.g. Goulding, 1993: 456-458; Richmond, 2002; Paris, 2004: 13-39; Call and Cousens, 2008).

1.3 Failed States in the Age of 'Global Security'

When it took office in January 2001, the administration of George W. Bush was less interested about failed states and statebuilding than the previous Clinton administration (Stohl and Stohl, 2008: 56-57). The events of 11 September 2001 would change this. Al-Qaeda's attacks at the heart of the world's superpower were compared to historical landmarks such as the assassination of Archduke Ferdinand of Austria, or Japan's attack on Pearl Harbour. Particularly in the West, claims of unpredictability, uncertainty and the global nature of the terrorist threat (Halliday, 2002: 31-32), shaped the idea that what was required was also a global response.

Once again, a feeling of anxiety was coupled with one of opportunity. The deadly attacks on the Twin Towers and the Pentagon were quickly linked to Afghanistan where Al-Qaeda had found its 'safe haven' under Taliban rule. Propelled by the events of 11 September 2001, the US gained considerable support to the quest of holding to account those 'aiding, supporting, or harbouring the perpetrators, organisers and sponsors of these acts' (Hurrell, 2002: 193). The US National Security Strategy (2002: 1, 4) placed 'failed' and 'weak' states as one of the top priorities of the Bush Administration, together with terrorism: 'America is now threatened less by conquering states than we are by failing ones.' 'The events of September 11, 2001, taught us', the document also emphasised, 'that weak states, like Afghanistan, can pose as great a danger to our national interests as strong states.'

The following passage from the 9/11 Commission Report (2004: 367) exemplifies not only the concern with the terrorism-failed states nexus, but also illustrates the concept of failed states as a category that performs a function:

In the twentieth century, strategists focused on the world's great industrial heartlands. In the twenty first century, the focus is in the opposite direction, toward remote regions and failing states. The United States has had to find ways to extend its reach, straining the limits of its influence. Every policy decision we make needs to be seen through this lens. If, for example, Iraq becomes a failed state, it will go to the top of the list of places that are breeding grounds for attacks against Americans at home.

'Nation building' was back to the top of Bush administration's foreign policy agenda, in deep contrast with its previous declarations regarding the issue. The instrumental use of this category, in the context of the US-led interventions in Afghanistan and Iraq, generated once more the debate about whether 'the agenda of state building operations was being determined by the need of the post-conflict society, or by the strategic interests of the Great Powers' (Chesterman, 2005: 340-350). Although there were references to the connections between failed states and terrorism during the 1990s (e.g. Albright, 1993; US National Security Strategy, 1998), this link would come to

the forefront of all US foreign policy priorities. The 2006 National Security Strategy reasserted and emphasised the idea of its 1998 and 2002 predecessors. The then presidential candidate Barak Obama, pointing out his views and main priorities for American foreign policy in an article for *Foreign Affairs* (2007), identified 'weak states that cannot control their territory or provide for their people' as a main threat to the US.

With September 11 and the US-led 'War on Terror', the UN as the central institution concerned with international peace and security placed the nexus of terrorism failed states on the top of its agenda. Expressions of this commitment are Kofi Annan's statement of 4 October 2002 and the move to enforcement in the decisions of the Security Council, including through Chapter VII (Newman, 2007: 117-125). This was the case with Security Council resolution 1368. It determined that 'the situation in Afghanistan constituted a threat to international peace and security.' It also recognised 'the inherent right of individual or collective self-defence in accordance with the Charter' (UNSC, 2001: 1). Resolution 1368 is interpreted as giving authorisation for US-UK joint operation 'Enduring Freedom' in Afghanistan (Luck, 2004: 99). Important UN documents regarding the organisation's efforts to adapt to the challenge of terrorism and its relation with failed states are the UN Security Council resolution 1373; the final report of the High Level Panel on Threats, Challenges, and Change, 'A More Secure World' (2004), and The United Nations Global Counter-Terrorism Strategy and its 'Plan of Action' adopted by the UN General Assembly in 2006.

The sovereign state was identified as the key to combat this complex challenge of security and development that involved weak and collapsed states, civil wars, terrorism, WMD, and that required a huge investment in peacebuilding and the strengthening of state capacity. Yet in this endeavour, in Kofi Annan's (2005: 6, 38-39) words 'to strengthen states and enable them to serve their peoples better', the UN did not forgo the issue of democracy promotion, nor of human rights and human security. Annan's (2005) report, 'In Larger Freedom: Towards Security, Development and Human Rights for All', is quite illustrative of this mind-set. A few years earlier, in 'An Agenda for Democratisation', Boutros-Ghali (1996: 4) clearly stated that the UN does not promote a specific model of democracy: 'each society must be able to

choose the form, pace and character of its democratisation process.’ However, as Newman (2007: 112) noted, ‘the concepts of national representation, equality, individual rights of citizenship, and secular and accountable forms of civil society’ were all represented in the UN’s approach to democracy. The UN Department of Peacekeeping Operations (DPKO) became the largest UN agency, with 90,000 troops deployed under its authority and a budget that increased from one to five billion US dollars between 1997 and 2006 (Yost, 2007: 68). Again, the UN led or was involved in a number of peacebuilding and statebuilding missions in Afghanistan, Liberia, Burundi, Haiti, Iraq, and Somalia, to name some of the most prominent examples (Chesterman, 2004; Malone, 2004). The UN’s involvement in Iraq, with all its particularities, was a source of major debates and controversy in international society (Malone, 2006: 185-221), due to widespread views that the US invasion was an illegal enterprise (Simpson, 2005).

According to Mallaby (2002: 3) the idea that the ‘anti-imperialist restraint that emerged since World War II’, particularly the ‘refusal of orderly societies to impose their own institutions on the disorderly ones’, was ‘becoming harder to sustain’ in this post-11 September period. Illustrative of this are the opinions expressed by Robert Cooper, who assumed the role of Director-General for External and Politico-Military Affairs at the General Secretariat of the Council of the EU in 2002, in an article for *The Observer* entitled ‘The New Liberal Imperialism’ (2002), and in his book *The Breaking of Nations: Order and Chaos in the Twenty-first Century* (2003). Cooper (2002) argued that in spite of the conditions for imperialism being there

the supply and demand for imperialism have dried up. And yet the weak still need the strong and the strong still need an orderly world. What is needed is a new kind of imperialism, one acceptable to a world of human rights and cosmopolitan values. The challenge posed by the pre-modern world, a world of failed states, is a new one, and instability in your neighbourhood poses threats which no state can ignore. Bin Laden has now demonstrated for those who had not already realised, that today all the world is, potentially at least, our neighbour.

According to Cooper (2003: 70-71), the 'general form of imperialism, also voluntary, which takes the form of trusteeship usually exercised by the international community through the United Nations', offered 'the people of a failed state a breathing space and some international assistance to enable them to re-establish a more sustainable state.'

Although it emphasised the need for a comprehensive approach (aid, diplomacy, military power) to respond to terrorism as opposed to the US-led more aggressive 'War on Terror' (Biscop, 2008: 13-16), the EU also identified failed states as one of the five key threats it faced. In the European Security Strategy (ESS) (2003: 5), state failure was described as 'an alarming phenomenon that undermines global governance, and adds to regional instability.' The other four key threats identified in the ESS are terrorism, WMD, organised crime, and regional conflicts, all associated with the issue of failed states.⁸

The promotion of democracy, human rights, and the rule of law, all figured in the EU's new 'responsibility for global security' (ESS, 2003: 1, 10). As Javier Solana expressed:

We do not want the benefits of the Union to end abruptly at its external borders. Nor do we want the benefits of the Union to be reserved just to those countries that are current or future members. Why not? Because the Union cannot exist as an island of peace, prosperity and stability in a wider sea of turmoil... Borders matter less, and, while the extent of states has become less relevant, so the content of states has become more important' (in Gheciu, 2008: 45, 53).

Solana's words give credit to the argument that the ESS pursued a strategy that seek to change the world essentially in the EU's own image (Howarth, 2007: 200). This renewed commitment to peacekeeping, statebuilding, conflict prevention and crisis management beyond the EU's neighbourhood (Howardt, 2008; Gheciu, 2008: 167-168) is evident in the number of civilian, police, military, and naval missions launched by the EU. These took place in the Balkans and beyond, namely in Macedonia, Bosnia, DRC, Chad, Central African Republic, Somalia, and Afghanistan. The EU also provided major financial support for other reconstruction and development operations

(Kosonen, 2006: 32), with a contribution of 40% to the UN's 2004 overall budget for peacekeeping (Biscop and Drieskens, 2008: 126).

After September 11 and for the first time in its history, NATO invoked its Article 5, the alliance's mutual defence clause. Although the allies were concerned with the same 'risk', i.e. 'the nexus of a failing state, terrorism, crime and poverty', fundamental differences existed in matters of approach to the problem (Williams, 2009: 117). Yet as recognised even by European officials, 'the key decisions are taken in Washington'. What the Bush administration had in mind for NATO, as Yost (2007: 102, 139-140) explains, was that the organisation should not be limited to military operations, the traditional collective defence view, but that the Alliance's capacity should be built up to assume responsibilities of stabilisation and reconstruction tasks in cooperation with other international organisations. NATO's new mission was now to build stable democracies with the purpose of tackling the dangers arising from failed and collapsed states (Williams, 2008: 49). The declarations of NATO's Secretary General Lord Robertson (2002a; 2002b; 2002c) are a clear defense of the view that building democratic states was the solution to the problem of state failure/collapse. Among other scenarios where it was already involved (e.g. Kosovo), NATO also deployed troops in Macedonia (Merlingen and Ostrauskaite, 2006: 83). However, the alliance's main focus was Afghanistan, as clearly stated in the International Security Assistance Force's (ISAF) 'Strategic Vision' (2008). Gathered in Bucharest, the heads of state and government of the alliance reaffirmed the determination to 'help the people and the elected Government of Afghanistan build an enduring stable, secure, prosperous and democratic state, respectful of human rights and free from the threat of terrorism'. NATO would also support statebuilding efforts in Iraq by training Iraq's security forces and played an important role in maritime operations in the Horn of Africa aimed at countering Somali piracy, in accordance with UN Security Council resolutions (NATO, 2005; NATO, 2009).

Attesting to the influence of the doctrine that state sovereignty ought to be contingent is the publication of 2001 Report 'The Responsibility to Protect' (R2P) by the International Commission on Intervention (ICISS). The R2P represented the highest stage so far of the doctrine of sovereignty as

responsibility. An initiative of the Canadian Foreign Minister Lloyd Axworthy, it counted with the participation of a number of prominent figures, including Michael Ignatieff, a Canadian academic and liberal politician, Ramesh Thakur, the Senior Vice-Rector of the UN University, and Gareth Evans, former Australian Foreign Minister. The central idea of the report was that the norm of state sovereignty was not only about autonomy, non-interference, and inviolable legal authority, but also about responsibility. This responsibility of states exists not only towards the protection of their citizens, but also to the society of states, namely in preventing difficulties within a state's borders turning into 'threats to international peace and security.' The logic behind this document is the sense of obligation lying with international society to fulfil its responsibilities if a given state is not able or willing to meet them (Cunliffe, 2005: 39-41). Among the greatest supporters of the report was Kofi Annan (2005: 57), who defended the 'emerging norm that there is a responsibility to protect.' Once more, the notion of sovereignty as responsibility was faced with opposition in some segments of international society. As Cunliffe (2005: 43) notes, this opposition was mentioned by the ICISS report itself, when it stated that 'for some, the new interventions herald a new world in which human rights trumps state sovereignty; for others it ushers in a world in which big powers ride roughshod over the smaller ones, manipulating the rhetoric of human rights.'

The academic literature on the topic of failed states witnessed a further upsurge after 9/11. The nexus of terrorism and failed states (Takeyh and Gvosdev, 2002) was used to show why failed states matter even more than in the previous decade, because it transformed the issue into a global *security* problem (e.g. Rotberg, 2002a, 2002b, 2003b; Chesterman, 2005; Patrick, 2007; Robinson, 2007), one that transcended 'its previous humanitarian dimension' (Fukuyama, 2004: 93). This nexus was also associated with 'all sorts of illicit activities such as drugs and weapons trade,' and thus as a source of 'threats and instability to their region and beyond' (Einsiedel, 2005: 13). The concerns of policy-makers about the issue of failed states and intrastate wars were reasserted in academia, with the emphasis on this 'new type of organised violence' in today's failed states, especially in Africa and Eastern Europe, as 'one aspect of the current globalised era'

(Kaldor: 2007: 1, 7-8). Other scholars were more sceptical, and considered the implications for the norm of state sovereignty of this blurring of the border between internal and international security (e.g. Bigo, 2001).

Again it was possible to identify a variety of attempts to define, characterise, and distinguish weak, failed, and collapsed states (e.g. Rotberg, 2002b; Milliken and Krause, 2002; Rotberg, 2003a; Jenne, 2003; Wainwright, 2003; Patrick, 2007). In this regard, there was a proliferation of international rankings according to which the 'performance' of states could be measured, including *Foreign Policy's* Failed States Index, UNDP's Human Development Index, Transparency International's Corruption Perception Index, and Freedom House's Freedom of the World Report (Rotberg, 2003a: 4). It is important to note that, amidst a wide set of criteria used to define state failure, there seem to be a certain consensus that these states were characterised by particularly violent conflict involving government forces and insurgencies, and where the distinction between warring parties and civilians is often blurred (Rotberg, 2002a: 85-86; Bain, 2003: 141-142).

Once more, numerous 'causes of state failure' were listed, either at the leadership level, state level, or system level (Einsiedel, 2005: 16). These included among others: (a) 'geographical, physical, or fundamental economic constraints, internal antagonisms, management flaws, greed, despotism, or external attacks' (Rotberg, 2003a: 4); (b) the inadequacy of the European model of the nation-state to the African continent (Einsiedel, 2005: 16-17); (c) the crisis of legitimacy of the post-colonial state that leads to violent contestation (Rubin, 2005: 96); and (d) the role of 'neighbourhood' in spreading state failure, in the sense that states like DRC or Afghanistan create 'regional conflict complexes' or 'regional conflict formations' (Cramer and Goodhand, 2002: 886; Armstrong and Rubin, 2005: 79-82). This vast body of literature is explanatory, with a 'problem-solving' approach to the topic. Though it never went away, the debate about 'fixing' failed states (Ghani and Lockhart, 2008) and how to achieve success in state-building and prevention of state failure re-occupied a centre stage (e.g. Rotberg, 2002a, 2002b; Cramer and Goodhand, 2002; Crocker, 2003; Dupont et al, 2003; Call and Cousens, 2008; Stohl and Stohl, 2008). The literature on potential shortcomings of and obstacles to these efforts by states, IOs, and NGOs to

address state failure also proliferated (e.g. Rotberg, 2002a; Chesterman, 2005; Rubin, 2005: 100-104; Coyne, 2006; Bickerton, 2007; De Guevara, 2008; Berdal, 2009). The need 'to focus on the state' (Cliffe and Luckam, 1999: 27), justified by the assumption that, without 'minimally functioning state institutions', peacebuilding becomes a fruitless endeavour explains, according to Call and Cousens (2008: 9), the shift from peacebuilding to statebuilding.

The debate about the economic causes of conflict continued. One of the most prominent theses about the issue was Collier's (2000; 2007). He argued that it is 'greed', i.e. economic opportunities, rather than 'grievance', i.e. discontent with a given ruler, that most often explains the agendas of different groups in 'large-scale civil wars' and the perpetuation of these since 1965. In this regard, Cooper (2002: 935-936) looked at how actors in these conflicts explore the connections between the local and the global economy. Keen (2008: 30) challenged Collier's thesis, in particular the latter's inability to understand 'how greed and grievance interact'.

Although recognising that the comparison between contemporary engagement with failed states and previous models of trusteeship is problematic, calls were made for the need to think about how could state building efforts reproduce 'the better effects of empire', e.g. peace, without reproducing its worst features (Chesterman, Ignatieff and Thakur, 2005: 383). In this logic, the accepted rules of sovereignty ought to be transcended to create 'shared sovereignty' in those states 'that suffer from some combination of internal strife, poverty, limited governmental capacity, or a dearth of liberal institutions' (Krasner, 2005: 69). Looking at the responsibilities that the UN and other international bodies in operations of international administration of war-torn territories, and thinking particularly of the cases of Eastern Slavonia, Bosnia, Kosovo and East Timor, Caplan (2002: 7) argued that 'international trusteeship for failed states and contested territories has become a reality in all but name.' In this regard, Caplan (2007: 232, 240) suggested that 'shared sovereignty', during a limited period of time and under the basis of consensus is a more promising alternative to 'neo-trusteeship'.⁹ Despite the historical analogies, there is not much of an effort

within these debates to comprehend the normative context of the principle and practice of trusteeship in history.

1.4 The Liberal Peace Critique

The critique of the liberal peace by a number of scholars attempted to capture and deconstruct the overarching interests, ideology, and values that informed what was described as a liberal international project that, in broad terms, endeavoured to establish peace and transform weak, failed and collapsed states into stable and functioning democratic ones. It should be mentioned that this liberal international project was not only influential in the formulation of policy, but it was also deliberately defended in academia (e.g. Baker, 1996: 530; Muravchik, 1996: 573; Reyhler, 2002; Kaldor, 2007: 11).

Perhaps the most prominent critique of the liberal peace came from Duffield (2001: 1, 11-16). He illustrated an emerging and complex system of global governance, composed of governments, NGOs, private companies, international organisations, including financial institutions and UN agencies. Common to this complex system is the shift from 'aid policy' to 'a new humanitarianism' based on 'conflict resolution and societal reconstruction', explained largely by what Duffield calls the new 'security-development nexus', i.e. the idea that development is not possible without security, and vice-versa. The overarching aim of this system is the political project of the liberal peace: 'to transform the dysfunctional and war-affected societies that it encounters on its borders into cooperative, representative and, especially, stable entities'.

Another important contribution is the work of Paris (1997: 56-63). He argued that liberal internationalism has been the central paradigm guiding the efforts of most international agencies involved in peacebuilding activities, defined 'as an enormous experiment in social engineering' that 'involves transplanting Western models of social, political, and economic organisation into war-shattered states in order to control civil conflict.' While noting that there is 'no single manifesto or central authority that guides the work of these peace-building agencies', he makes the case that 'the promotion of free and fair elections, the construction of democratic political institutions, respect for

civil liberties, and market-oriented economic reforms' are most often present in these attempts to achieve 'peace through political and economic liberalisation'.

Despite a consensus that the liberal peace represents 'a single and coherent object of inquiry', recent contributions observed that the liberal peace is not constituted by 'a singular logic or set of assumptions', and that 'different ideas are at work in the movements between peacebuilding and statebuilding as modes of conflict management' (Sabaratnam, 2011). As Mayall and Oliveira (2011: 12) put it, 'the consistency of such an agenda should not be overstated.' In this regard, Richmond (2005: 125-177; 2006: 292) called for a more elaborated understanding of 'the different conceptualisations of peace, and the different graduations of the liberal peace.' He noted in particular the existence of a 'weak consensus' among the various actors (UN, NGOs, major states, and donors) involved in these international interventions, regarding the forms and models for the pursuit of market democracy, the rule of law, and development. This understanding has led to somewhat limited efforts to discuss and understand in more depth the liberalism, or as Simpson (2000) argued, the different liberalisms at play.

The liberal project of transforming failed states according to the values and interests of the liberal world was criticised by a number of scholars. Two aspects in particular dominated the debate. One was the emphasis on its utopic nature (e.g. Paris, 1997: 57; Miliken and Krause, 2002: 762; Sens, 2004: 147; Collier, 2009; Williams, 2010). The other main criticism questioned if these interventions aimed at establishing liberal forms of governance are actually illiberal practices (e.g. Chandler, 2004; 2006: 1; Richmond, 2005: 173-175). This literature is filled with analogies between the imperial/colonial past and what is seen as the possible reproduction of those practices through the contemporary international peacebuilding activities. Paris (2002: 637-638) associated the contemporary international peacebuilding missions with the sense of duty of the *mission civilisatrice*, due to the liberal peace's 'particular vision of how states should organise themselves internally'. He nevertheless argued that there are qualitative differences between the two, namely that the 'fact that European colonialism was practiced primarily to benefit the imperial states themselves, whereas

the motivation behind recent peacebuilding operations is less mercenary'. A similar comparison, yet one that casts doubt on the existence of a qualitative difference between past and present, came from Duffield (2005: 141) who, drawing on Rousseau and Foucault's analysis of the concepts savage and barbarian in the eighteenth century historicopolitical discourse, defined development and underdevelopment biopolitically. The contemporary development project carries this vision, and is thus a 'radical and intrusive endeavour' aimed at 'transforming societies as a whole within the global borderland' for the sake of security, thus very much a continuation of the old colonial logic.

Despite these analogies, efforts to move beyond brief parallels between present and past to a more comprehensive understanding of the historical background of this issue were limited. Paris (2004: 40-54) referred to the historical idea, defended both by liberal philosophers of the Enlightenment and by liberal internationalists after World War I, that liberalisation and liberal forms of government could be a remedy for violent conflict within and between states. Likewise, Richmond's (2005: 4-6, 23-49) brief historical overview attempted to show how the contemporary notion of the liberal peace consensus, i.e. 'peace as governance', is a result of older discourses. He argued that this liberal peace consensus reflects the merging of different notions of peace: 'victor's peace', the 'institutional peace', the 'constitutional peace', and the 'civil peace.' Richmond rightly noted the complexity of the attempt to reach a core meaning of the term peace, given its changing and contested character according to historical periods and to the agents involved. Yet, a critique that can be levelled at this approach is that it oversimplifies a much more complex picture for the sake of the argument that the pursuit of peace was a dominant international trend since the Enlightenment. The attempt to discern a single motive behind international practices is an unwarranted one. Reading history through the lenses of peace inevitably leads to this result, either by omission or by choice. As Bain (2011: 37) pertinently puts it, 'human conduct rarely, if ever, springs from a single motive. To identify any one motive as the primary cause of things promises the simplicity that academics crave and the cover practitioners need.'

Finally, it should be noted that the account provided by the liberal peace critique is very much in tune with the idea that the end of the Cold War and the implosion of the USSR did not mark the collapse of the old international order. Instead, this period marked the consolidation and expansion of the order that the US and its allies created after World War II. According to Ikenberry (2001: 215-256), this order was built essentially around four ideas: (a) 'a commitment to open markets'; (b) 'the management of this order through international institutions and agreements'; (c) 'a social bargain to secure the welfare of the people'; and (d) 'a cooperative Western security order.' In Ikenberry's (2010: 535-536, 546-548) view, what really changed with the end of the Cold War in the perspective of this 'American-led liberal hegemonic order' was the 'security problem', whereby superpower rivalry and possible direct confrontation was replaced by 'violence and instability emerging from weak, failed, and hostile states.' Thus, this 'liberal moment' was also one of 'opportunity' and optimism to promote democracy and free markets, and enlarge the group of democratic states. Nevertheless, there are differences between the liberal peace critique and liberal institutionalists. Chief among these differences is the former's focus on what they see as non-benevolent/imperial practices, in contrast with the latter's tendency to talk about a benign hegemony, even if there are exceptions to this rule (e.g. Ikenberry, 2002).

1.5 Concluding Remarks

Since its emergence at the end of the Cold War, the concept of failed states occupied the central stage of international society. The functions that the concept served are evident. Any state susceptible of being associated with the category of failed due to developments within its borders, be it severe human rights violations/humanitarian catastrophes, endemic conflict or the existence of terrorist safe havens, could eventually become the target of an external intervention, especially if those developments were interpreted as a threat to international order, peace, and security. These interventions were most often sanctioned by UN Security Council resolutions under Chapter VII

of the charter, and many of them involved a prolonged and noticeable foreign/international interference in the state(s) in question.

The issue of failed states was marked by important debates about the principle of state sovereignty and what it should entail, as well as questions of legality and legitimacy in international society. Particularly among Western and like-minded states and in the UN realm, there was a concerted move towards the interpretation of the norm of state sovereignty as contingent, namely that autonomy and non-interference were rights that carried with it responsibilities towards both the state's own citizens and international society. Other segments of international society often expressed their concern about the doctrine of sovereignty as responsibility, and related liberal internationalist practices. However, the posture of Great Powers such as India, Russia, or China regarding the issue, as well as that of some the so-called developing states, is more complex than simply one of opposition to these international practices.

Regarding the literature on failed states in IR and cognate fields, it is generally descriptive and tends to go hand in hand with the policy-making concerns of the moment, with a problem-solving approach to the topic. This literature, including the debates about the reasons of state failure, is also strikingly uncritical and ahistorical. The liberal peace critique came to counter the uncritical nature of the literature, by highlighting an overarching trend in most of these international practices aimed at establishing peace and rebuilding the state, according to a particular vision of how these states should be governed. This raises inevitable links with the US-led liberal hegemony in international society. These scholars correctly underline that a concern with peace, human rights, free elections, democratic political institutions/forms of government, economic development or free markets are traits most often found in these international practices. Within the liberal peace critique, there is a tendency to refer to the imperial nature of these contemporary international practices, in the context of which brief associations or comparisons between the imperial/colonial past are made. However, attempts to counter the ahistorical character of the literature on the topic of failed states are still very limited.

The discussion in this chapter seems to confirm the notion suggested by Simpson (2004), Anghie (2005), and Wilde (2007; 2008), that international law has been used, at least in the last two decades, to justify and legitimise the reproduction of practices of imperial nature, in particular by the liberal hegemonic core of international society. The same applies to Wilde's (2007; 2008) argument that the notions of the 'international' and 'international organisations' have masked the particular ideologies and interests that drive interventionist practices and subjection to alien rule.

Yet, a few important questions remain unanswered. First and foremost, to what extent was, and is, international law and the principle of state sovereignty decisive in the perpetuation of the idea and category of defective polities and related international practices? The answer to this question is closely related with and dependent on the interpretation of the place of international law in international society, of what international law is and how does it matter. One possibility, as discussed above, is that international law has been crucial in the perpetuation of practices of imperial nature by the most powerful members of international society, by allowing them to justify and legitimise such practices. Another possibility is that international law is more epiphenomenal than indicated in Simpson (2004), Anghie (2005), or Wilde's (2007; 2008) accounts. International law and principles of morality matter, as the constant invocation of principles and rules by actors in international society reveals. However, instead of a cause of international behaviour, international principles, rules, and norms such as the doctrine of sovereignty as responsibility, or the UN Security Council resolutions defining developments within the realm of a state as a threat to international peace and security, might reflect a wider context in international society. In particular, the normative issues discussed in this chapter reveal: (a) a substantial degree of contestation about the key principles and norms of international society; (b) the preponderance of the US-centred liberal hegemony and of liberal principles in international society; (c) divergent ideas about how states should be governed and what 'the moral purpose of the state' (Reus-Smit, 1999) ought to be; and (d) the importance accorded by Western and like-minded states to the values of peace, human rights, or economic development. This, of course, is not to argue that these values are

universal. Moreover, the aim of universalising these values does raise important questions about whether there is a break with the imperial past. The point is that there might not be anything inherently imperial and oppressive in the nature of international law.

Chapter 2 - A History of an Idea of International Society

Generations come into the possession of words and ideas as they come into the possession of public buildings. They call them 'their own' and no longer remember who built them and for what purpose.

Richard Koebner and Helmut Dan Schmidt (in Waever, 2002: 1).

2.1 Introductory Remarks

To test its hypotheses and trace the idea of defective polities in the history of international society, this study combines an English School (ES) approach with insights from the history of ideas and international conceptual history. The first section of this chapter reflects on the concept of international society, and what it means to speak of understanding/interpretation in the study of international society. It explains how this historical-empirical account relates with the issue of normativity. Because the history of the idea this study is concerned with has an important normative dimension, the following section looks at the role of norms and rules in international society, particularly state sovereignty. Related with the issue of norms and rules, it also reflects on the notion of practice(s), and the issues of causality and change in the ES. The third section focuses on the ES contribution to the study of history in IR. The aim is to discuss the theoretical and methodological lenses through which we will look at the history of this idea in international society, and address some concerns that have been levelled at the ES approach to history. The implications of treating the sovereign state as an historical construct are also addressed.

The final section provides a brief overview of the various schools of conceptual history, before discussing in more detail the Cambridge School (CS) of conceptual history, from which this project draws a number of important meta-theoretical insights. It explains the choice of combining an ES approach with insights from history of ideas/international conceptual history,

and how this move is compatible with the ES cognitive goals. It also discusses how international conceptual history can be of value to understand the ideologies, values, beliefs, and interests in international society that generated, shaped, and changed the concepts we will be looking at.

2.2 An English School Approach

2.2.1 Understanding International Society

The choice of an ES framework rests, first of all, in the meta-theoretical value of its central concept, international society. As Bull (1977: 13) defined it:

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 (Bull 1977: 13).

According to Bull (1977: 9-13), any international society is necessarily preceded by an *international system*, defined as a system of states and of states only, and thus 'formed when two or more states have sufficient contact between them, and have sufficient impact on one another's decisions, to cause them to behave – at least in some measure – as parts of a whole.'¹⁰

It is consensual that international society is the key element of self-identification of the ES. Yet there is some disagreement about the ontological status of the concept of international society. Some scholars (e.g. Dunne, 2004: 66; Navari, 2009b: 44) claim there are important differences among the members of the ES regarding their understanding of international society. Navari argues that Wight 'conceived his subjects primarily in social and cultural terms', whereas Bull 'tended to view his subjects as rational agents', driven essentially by interests. Yet in Bull's definition of international society above, as well as more generally in his work, interests and values are accorded the same degree of importance (Alderson and Hurrell, 2000: 5-7). As noted by Wilson (1989: 53-54), Bull's conception of international society is

quite similar to Manning's, and in fact its ontological status is constant across various key figures of the ES, not only Bull and Manning but also Wight, James, and Vincent. Attesting to the ES approach to international politics based on interpretation or understanding, international society is, according to Manning, a 'socially prevalent idea.' In other words, international society is 'an idea generally held', 'prevalent in the minds of men,' one among the numerous notions that influence the conduct of international actors but that shapes to an important extent the practice of statecraft and diplomacy. Thus, the crucial test of whether or not this idea of international society influences the conduct of international relations is the extent to which statesmen believe this idea exists and thus 'act accordingly' (Wilson: 1989, 53-54).

There is also a debate about the aim of ES theory (Buzan, 2004a: 12-14; Linklater and Suganami, 2006: 43-44). In particular, as Buzan argues, there is often a conflation between the normative and empirical strains of thought within the ES, and he calls for a following of the latter.¹¹ We embrace this view, with an approach based on the sociological understanding of international society. This approach follows Manning's (1975: 209-210) concern with 'the layout of the social world and the relation of the elements within it', with understanding 'the collective life of social man'. Manning's sociological interpretation of international society was given continuity by the likes of Bull (1977) and James (1986) (Suganami, 2001: 105), and paid particular attention to international law and other principles, norms and conventions (Wilson, 2004: 759). Although Manning recognised the importance of history, he did not embark upon any significant historical study (Linklater and Suganami, 2006: 84-85). In this thesis, the sociological understanding of international society is applied to its history.

While this project opts for a historical-empirical approach, the normative is always present in the ES, the question is how it is applied to the study of international relations (Buzan, 2004a: 14-15). As Mayall (2009: 210) explains, there are two senses of normative in the ES: (a) sociological, i.e. 'discerning norms or practices of a particular society'; and (b) philosophical, i.e. 'determining the right or the good or the proper form of action.' This thesis's approach is identified with the former. An example of the latter is the pluralism-solidarism debate. The historical-empirical approach is also

normative, but in methodological terms is the opposite of the pluralism-solidarism debate. Instead of taking normative positions about the present international society and how it should look like, the historical-empirical mode of enquiry focuses on what kind of norms derived from practice in order to gain a good understanding of the nature of international society. It is more about how it was, and the way that that past relates to the present, rather than how it ought to be/have been. A good example of this historical-empirical approach is Bain's (2003: 9) enquiry into 'interpreting human conduct' and not 'explaining human behaviour.' His goal is to understand the practice of trusteeship in the history of international society, to then reflect upon the extent to which it is a morally appropriate practice in contemporary international society, in the light of its present normative context.

This concern with international human conduct echoes the notion of 'practice.' This notion has gained considerable prominence in IR, reflected in what is called the practice turn in the discipline. This has led to a few attempts to clarify what is meant by practice in the ES and other IR theories. One is example is Adler and Pouliot's (2011: 1, 4) definition of practices as 'socially meaningful patterns of action.' This conceptualisation, particularly the reference to practices that are 'socially meaningful,' echoes very much the ES approach based on the interpretation/understanding of 'social facts' and 'human conduct' (Jackson, 2009: 21). For the ES, studying practice entails a concern with the customs, norms and values, as well as the ideas and beliefs that can be associated with international conduct (Navari, 2011: 13).

The interpretative stance of the ES has been object of criticism from the realist, institutionalist and constructivist realms alike. These criticisms are directed at what is seen as the School's 'methodological quietism' and 'neglect of causal propositions' (Navari, 2009a: 1-2). Thus, there has been a call for a 'refinement' of the ES so that it can identify 'the motors for change and lines of causation in world politics' (Bellamy, 2004: 3). Against these views, Navari (2009a: 1-2) argues that there is not an absence of method in the ES, and these criticisms derive essentially from different notions of what method is. The most important idea to keep in mind in this regard is that, for the ES, to conduct the study of international relations within a strictly defined

set of rules does not make any justice to the object of study (Wilson, 2009: 184-185). As Mayall (2009: 209) puts it, 'the English School serves its method when it wears it lightly.'

According to Linklater and Suganami (2006: 34), there are two meanings for the interpretative approach of the ES. One of these, articulated by Suganami (1983) and Wilson (1989), places the emphasis on understanding and interpretation regarding the 'cultural and institutional assumptions of those who speak and act in the name of the states in order to be able to make sense of what goes on in international relations.' Another meaning, present in Wight and Bull's approach, and further explored by Dunne (1998), refers to the 'attempt to interpret what goes on in world politics in the light of the three or more Western traditions of international thought identified in the ideas of international lawyers, political philosophers, diplomats and state leaders.' Far from opposite, however, these two meanings reflect a prioritisation of different but related levels of analysis, the political and the philosophical, while the emphasis on understanding is shared. This prioritisation of one over the other in IR enquiry might sometimes be necessary for practical reasons. Moreover, because the state remains the cornerstone of contemporary international society, it is only natural that the practice of statecraft occupies a central place in the ES. Yet beyond the fact that Linklater and Suganami include the concern with the mind-set of state leaders in their two meanings of interpretation, any attempt to study international relations through one of these two forms of interpretation necessarily relates to the other, even if unconsciously. How can one make sense of the political sphere of a given time period without having a notion of the philosophical context, or study the philosophical realm without understanding the political environment in which the philosophers and international lawyers worked? In practice, the frontier between the two realms is a thin one.

Members of the ES have contributed to debates about the merits and setbacks of drawing distinctions between state, government, and society (Suganami, 1988: 71-75; Buzan, 1991: 59).¹² One of the outcomes of these debates is a greater willingness to overcome the academic divisions between IR, political science, and sociology. Such move makes room for a more

comprehensive understanding of the state, and to account simultaneously for its internal and international dimensions (Shaw, 1991: 3; Little, 1991: 20). In recent years, driven by both the perception that 'international society deals with a wider number of questions that has hitherto been acknowledged' (Bellamy, 2004: 10-11), and by the need to consider other actors in international society beyond the state (Buzan, 2004b), the concern with methodological pluralism (Buzan, 2004a) has become an explicit one in the ES.¹³

2.2.2 Norms and Rules in International Society

One of our main aims is to understand the possible role that the principle of state sovereignty and respective norm has played in the perpetuation of the idea of defective polities and related international practices. As it is clear in the ES definition of international society, and as reflected by the emphasis on the common rules and values embedded in the very concept, the ES operates in the realm of the normative (Jackson, 2009: 21), the study of 'what ought to be' (Bellamy, 2004: 5). As Watson (2007: 2, 22) notes, 'the ethical and moral dimension of the relations between states' has always been a concern of the ES. In particular, the issue of moral obligation as 'a matter of belief' has been a central theme, as reflected in the works of Butterfield and Wight. Also related with the idea of moral obligation is the notion of legitimate authority and legitimate action as shaping the minds and the practices of the actors in international society.

Following Wight's (1977) work, there are attempts in the ES (e.g. Clark, 2005; 2007), to dig further about the preoccupation of agents in international society to act in accordance with, or supported by the notion of legitimacy. Clark (2005: 2) shows how legitimacy is constantly present not only in the language of scholars but that of 'practitioners.' According to Clark, legitimacy 'represents the very essence of what is meant by an international society.' Yet his observation that principles – of morality, legality, and constitutionality – matter in international society is simply a reassertion of ES essential tenets. Doubts remain about the fruitfulness of this endeavour to reach an account of international society based on the concept of legitimacy.

As Clark (2007: 17) recognises, this concept is essentially a contested one and it is likely to remain so. He lists a number of categories to conceptualise legitimacy – ‘empirical/normative; descriptive/prescriptive; a form of compliance, distinct from coercion, or self-interest; input/output; substantive/procedural’ – that do little to overcome these obstacles. The vagueness and lack of clarity of the concept of legitimacy has been noted by a number of authors who have questioned its usefulness (e.g. Hyde, 1983; Koskenniemi, 2003; Mulligan, 2004). It is highly problematic to speak about a certain action as legitimate or illegitimate, at least without clarifying an endless list of issues. To speak about a certain action as legitimate or illegitimate implies the existence of a clear set of criteria to judge the extent to which that action conforms with the norms of international society. It also begs the question of who is the judge of this, not to mention the misleading idea that norms in international society do not clash with each other. Despite all these problems in classifying practices in international society in terms of degrees of legitimacy, the concern of actors in international society to justify their actions in relation to existing norms or rules to which they have subscribed to is easily observable.

According to Clark (2007: 15), ‘international legitimacy has long been a deeply entrenched practice within international society, and, as such, serves as a powerful constraint upon behaviour.’ Because legitimacy is appraised in relation to existing norms/rules, the latter lead – implying here a relationship of causality – actors of international society to behave in manner x or y. This view seems to fit within a burgeoning scholarship that, since the 1980s, sees norms as ‘independent variables’ that influence or shape the behaviour and policies of states. As Navari (2009a: 4-6) explains, this scholarship has also looked at norms’ ability ‘to influence domestic actors, which affects states, which in turn produces international cooperation’ (e.g. Goldstein and Keohane, 1993; Cortell and Davis Jr., 1996; Finnemore and Sikkink, 1998). According to Reus-Smit (2004b: 14-23), the most prominent IR schools view international law in the following manner: (a) for realists, international law is ‘either irrelevant or a simple reflection of the prevailing balance of power’; (b) neoliberal institutionalists see it ‘as a set of functional rules promulgated to solve co-operation problems under anarchy’; and (c)

constructivists emphasise the mutually constitutive relationship between international law and international politics. This latter belief that international rules cause behaviour is a central assumption of those who argue that international law/ state sovereignty have played a key role in the perpetuation of imperial/colonial practices (e.g. Anghie, 2005; Wilde, 2007).

Contrary to these views, for the ES norms 'do not cause things to occur, because in logical terms they do not exist before being demonstrated in action' (Navari, 2009a: 4-6). As Jackson (2009: 22) puts it, one ought to avoid committing the error of seeing norms as 'both causes of behaviour and standards of conduct.' Thus, rather than causes, norms are effects or outcomes.¹⁴ As Wilson (2009: 172-173) notes, Bull emphasised this point regarding formal rules when arguing that 'international law is a social reality to the extent that there is a very substantial degree of conformity to its rules; but it does not follow from this that international law is a powerful agent or motive force in world politics.'¹⁵ Thus, practice in international society, which according to Watson (2007: 22) 'always has some element of hegemony in it,' precedes the establishment of formal rules.

As mentioned before, for the ES, international law matters. The legacy of the ES challenges the assumption that politics and international law have long been considered as separate domains in IR, and counters the generalisation that until recently there were almost no attempts to understand how the two realms interact (e.g. Reus-Smit, 2004a: 1-2). The notion of common norms and rules is central in the concept of international society. As James (1973: 68) fittingly highlighted, 'international law supports a structure of expectations without which the intercourse of states would surely suffer an early collapse.' It is this collective understanding and expectation, this normative 'behavioural framework' provided by norms and rules about what is proper conduct, that confers the necessary confidence for the 'orderly conduct' of 'social activity' in the international realm (Wilson, 2009: 171).

The perception that hegemony is often the driving force behind practice in international society, and thus generates norms/rules, raises some issues regarding the ES account of the relationship between power and international law. This has been pointed out as one of the weak links of the ES approach to international law (Wilson, 2009: 180-181). Wilson notes how the most powerful states have the political and economic clout

to more effectively face accusations of behaving contrary to existing norms/rules, and react more effectively in the face of other states' violations. Thus, if norms generate expectations about what is proper behaviour in international society, and if these norms/rules often emanate from hegemonic practices, how do less powerful political communities fit into this framework?

This question has much in common with the theme we highlighted before. On the one hand, a few scholars believe that there is a relation of causality between international law/state sovereignty and the perpetuation of imperial/colonial practices. Then, logically, to understand the perpetuation of these international practices related with idea of defective polities, one should look at the colonial/imperial nature of international rules. On the other, contrary to 'the instrumentalist' view of rules in international society, members of the ES have continuously underscored that 'law always reflects the society from which it emanates.' In line with the ES's sociological approach, 'any given system of law can only be properly comprehended and evaluated by examining the social milieu that gives rise to it' (Wilson, 2009: 168). Thus, to understand the perpetuation of imperial/colonial practices, instead of looking at the nature of international rules, one should look at the nature of international society.

These contrasting interpretations derive to an important extent not only from opposing understandings of what international law does, but also from different conceptualisations of what international law is. A criticism of the ES approach to legal rules is that it conceives international law in a rather restrictive manner (Wilson, 2009: 175). For example, Bull (1977: 127) defined law as 'a body of rules', formal and informal, which binds states and other agents in world politics... and is considered to have the status of law.' This latter aspect – that law is what actors in international society (especially but not only states) identify as law through their practices, as carrying a sense of obligation – is in tune with recent analysis of the relationship between international relations and international law (e.g. Shelton, 2009: 68; Carty, 2009: 82). Bull also noted that international rules may originate from various sources, including 'morality, custom or established practice,' as well as international law itself (Armstrong, 2006: 122). As Wilson (2009: 168, 175-

178) explains, against this conceptualisation, there have been calls for an approach to law that encompasses 'the entire decision-making process', from 'the revisionist stance of Rosalyn Higgins to the instrumentality of the New Haven school and the radical rejectionism of Martti Koskenniemi and Critical Legal Studies.' In the light of domestic law, they tend to see international law as 'a means of social control' or an 'instrument of social reform.' In this perspective, 'international law is never neutral.' It is instrumental for the pursuit of certain goals. This way of explaining law/legal rules is vulnerable to the critique that it obliterates all distinctions between the notion of law as a body of rules, and basically every other social practice that relates directly or indirectly with those rules. The concern with what is seen as the legal process also leads to a confusion regarding 'the identity of the norm' and the political and social context that precedes it and surrounds it (Wilson, 2009: 168, 175-178).

Because practice in international society changes then necessarily norms also change. Thus, the framework of this thesis ought to be sensitive to normative change, in particular when it comes to the vital norm of international society, i.e. state sovereignty. Normative change is another aspect of the ES approach to international law that has been pointed out as in the need of further exploration (Wilson, 2009: 192). For one, a causal line of enquiry would distort the ES approach based on interpretation and understanding of international society, and a scepticism regarding scientism in IR (Bellamy, 2004: 5). Yet the ES opposition to scientism should not serve as a deterrent to shed light on normative change. As Linklater and Suganami (2006: 2) note, 'contemporary analysts frequently rely on the School's principal themes' to attempt to understand 'continuity and change in the structure of international politics.' The aim of this study is not to resolve the essentially contested nature of the concept of sovereignty (Jackson, 1999a: 424-425) by pointing out a given definition as the most desirable one. Also in this regard, the approach will be sociological, with emphasis on the attempt to understand the doctrine of state sovereignty and respective norm in its historical context(s), and how it fits in the history of the idea this thesis is concerned with.

As a response to the question of whether state sovereignty is a legal idea, i.e. it exists as a right, or a political idea that exists only when exercised – an aspect which highlights capacity and power (Buzan, 1991: 67), a certain consensus has been developed that the answer lies somewhere in the middle. In relation to the opposing views that statehood is ‘a matter of fact and not of law,’ i.e. a ‘legal status independent of recognition,’ or on the other hand ‘rights and duties pertaining to statehood derive from recognition’ only, Crawford (2006: 4-5) notes that neither view is satisfactory. In practice, the recognition of sovereignty in international society involves a juridical aspect, i.e. the recognition of independence as a right, and a political aspect, i.e. the recognition of autonomy (Jackson, 1999a: 424-425). Jackson’s (1990: 27-29) application of Isaiah Berlin’s notion of positive and negative liberty to the concept of sovereignty illustrates the often existing tension between the political and juridical aspects. He defines ‘negative sovereignty’ as a ‘formal-legal condition’ of freedom from outside interference and ‘positive sovereignty’ as the possession ‘of the capabilities which enable governments to be their own masters’ (Jackson, 1990: 27-29). Although ‘the substantial, positive content of sovereignty has always been contested,’ Sorensen (1999: 595) notes, ‘the rules of sovereignty exist irrespective of the fact that many sovereign states have not always enjoyed the autonomy implied in the notion of constitutional independence.’

Another differentiation in the literature is between the internal aspect of state sovereignty and its international dimensions. While the former refers to the question of ‘who is sovereign’, the latter raises the issue of who ‘is illegible to be a member of international society.’¹⁶ Jackson’s (1999b: 433) point that ‘sovereignty is the assumption that a government of a state is both supreme and independent’ illustrates well the two faces of the coin. Conceptually, this attempt to treat both dimensions separately might make sense, but looking at practice in international society it is evident that the two are intimately related. For example, the rise of the principle of self-determination is surely not alien to the move in Europe from dynastic to popular sovereignty in the context of the American and French Revolutions (Mayall, 1999: 476).

In his attempt to reach the core meaning of sovereignty in international society based on the study of practices, James (1986: 266) highlights the notion of 'constitutional independence'. It is constitutional independence that 'makes a territorial entity eligible for membership in international society.' By 'constitutional' is not meant necessarily a book with written rules/principles or a democratic system. As James (1999: 461) clarifies, 'any government requires a constitution, whether *de jure* or *de facto*.' As he explains, 'a constitution of a state... consists of the body of principles and basis rules in the light of which is to be governed.' Contrary to this picture that state sovereignty has had an essential core meaning along its history, Taylor (1999: 563) provides an account of the constant reinterpretation of sovereignty in practice according 'to the circumstances of time and place', which produces continuous controversy in international society.

Breaking this continuity-change dichotomy is Jackson's (2007) historical overview of the idea of sovereignty, a persuading account that there is both continuity and change in the idea of sovereignty. In his view, sovereignty is better seen as 'an evolving idea of authority embodied in those bordered territorial organisations we refer to as 'states' or 'nations' and expressed in their various relations and activities, both domestic and foreign' (Jackson, 2007: ix). This idea has both a political and a juridical component. 'The former is the idea of supreme authority in the state and the latter the idea of political and legal independence of geographically separate states.' But what exactly continues, and what changes? Jackson (2007: 23) argues that there is continuity in the notion that 'a sovereign government is an authority that is supreme over all other authorities in the same territorial jurisdiction, and is independent of all foreign authorities.' What changes are the questions of 'who is entitled to hold and exercise sovereignty', and 'what are the uses to which sovereignty can be put.' In this regard, Sorensen (1999: 590-591), makes a distinction between 'constitutive rules', which remain unchanged, and 'regulative rules', which change constantly and over time. The constitutive 'content' of state sovereignty is formed by states with territory, government, and population, plus constitutional independence as an expression/recognition of legal equality, all in the wider context of an

international society. The regulative rules are those that regulate the 'sovereignty game', a foremost example being rules of admission to that 'game'. These are marked by a set of often unclear criteria that was shaped across the history of international society by a number of elements, including the interests of the European Great Powers or the ideas of popular sovereignty and self-determination (Sorensen, 1999: 592-596). As Mayall (1999: 476) puts it, the question of who are 'the appropriate collective selves whose right to self-determination must be recognised' remains unanswered and it might only be possible to answer it in practice. This contested nature of the regulative rules of sovereignty reflects the existence of competing values, beliefs, and interests in international society.

2.2.3 The History of International Society

One of the central purposes of this thesis is to trace and shed light on the idea of defective polities, by identifying and understanding in the history of international society the concepts that expressed that idea. International history and the history of international society have always occupied an important place in the ES.¹⁷ This is certainly not alien to the fact that two of the ES original figures, Wight and Butterfield, were themselves historians (Bain, 2009: 148). The list of major ES historical studies is a long one, of which the following ought to be mentioned: Wight's (1977) comparative sociology of states-systems; Bull and Watson's (1984) edited volume on the expansion of the international society of European states, and its transition from European-dominated to a global international society; Gong's (1984) exploration of how the idea of a standard of civilisation emerged and evolved constitutionally within European international society, and the role it played in its expansion; Jackson's (1990; 2007) work on the evolution of the idea of sovereignty; Watson's (1992) comparative study into world history of different international systems and societies; Buzan and Little's (2000) study of international systems through a world historical perspective; and Clark's account of the international practice of legitimacy as the basis of international society (2005) and the development of this notion in international society and in a possible world society (2007).

Although it is consensual that international history matters for the ES, it has been argued that it is less clear what exactly ES writers mean by historical enquiry, and how historical enquiry contributes to the study of international politics (Linklater and Suganami, 2006: 6; Navari, 2009a: 11). One issue around which there is some consensus, however, is the ES' rejection of a causal or mechanistic approach to history. Butterfield, for example, believed that such an approach was neither possible nor desirable. As Wilson (2012: 141) explains, for Butterfield history was 'a labyrinth of multiple causes and multiple effects, a product of a complex series of interactions in which outcomes are not really outcomes but mediations – mediations between conflicting wills and forces that are rarely the direct product of intentions.' Butterfield believed that the role of the historian is 'to understand the past for the sake of the past', while avoiding the interpretation of the past and moral judgements based on contemporary standards. Both Butterfield and Wight highlighted the importance of 'getting inside history', of understanding the ideas and the minds of individuals and societies (Bain, 2009: 148, 152). As Jackson (2008: 363) puts it, 'Wight was a historian of ideas, but he never lost sight of the fact that ideas begin and end with human beings.'

The rejection of causal/mechanistic approaches to history should not deter one's attempts to look at history to better understand present practices. This is why Bain (2009: 151-162) argues that the 'use' of 'history' in the ES ought to be different from the traditional explanatory narrative of historians. He defends an approach to history supported on Michael Oakeshott's concern with 'understanding the present.' Oakeshott's main premise was that history 'is tied up in the judgement of the historian', and thus it should consist of an attempt to go beyond the gathering of facts, an activity that by itself already involves 'judgements that are necessarily informed by the historian's current state of knowledge.' Oakeshott also rejected the existence of a clear distinction between past and present. Thus, what is needed is the understanding of the past so that the scholar can shed light on his/her's present concerns.

Given this project's aim of shedding light on the nature of the issue of failed states in international society, we adopt a sociological approach to

history, which involves an attempt to understand context and the minds of the peoples and politics of a given time, all as an exercise to shed light on one's present concerns. Far from having 'one foot in interpretivism (understanding) and the other in the legacy of positivism (explanation)' (Price, 1994: 204), we combine a focus on understanding the motives of the actors in international society, and the context in which they operated, with the notion of methodological pluralism. This meta-theoretical choice also derives from a view that both the historical context and process that led to the formation of contemporary international society are best understood when accounting simultaneously for: the international system level, e.g. the role of power; the international society level, e.g. the minds of statesmen; and the world society level, e.g. the international actions of individuals/non-state actors. While the international society level is the central one, the other two levels are also taken into consideration insofar as they assist in the task of understanding the history of the former.

The ES approach to history has received accusations of being 'morally complacent' and 'conservative' (Callahan, 2004: 305, 322). A prominent critique comes from Keene (2002: xi), who argues that Bull ignored the 'dualistic nature of order in world politics', and the consequent processes of imperialism and colonialism that characterised order beyond Europe. Little (2009: 97-98) believes that Keene's account of the expansion of international society not only is 'more convincing' than what the ES has developed so far, but it also provides a 'very much darker account of what the expansion of the European international society involved.' However, Keene's narrow emphasis on Bull's *The Anarchical Society* (1977) at the same time as Keene ignores a number of other important ES works, is a self-serving choice to the argument that the ES has ignored the processes of imperialism and colonialism that are inherent to the expansion of international society. Bull's (1977) study is not primarily a historical one. If one considers Wight (1952; 1991), Bull and Watson (1984), or Gong's (1984) historical investigations, there is a lot in these works when it comes to the history of imperialism and colonialism. In particular, as Epp (1998: 57-58) notes, the issues Bull and Watson's (1984) edited book deals with, from the 'standard of civilisation and the imposition of unequal treaties in relations with Asia' to race and the

'reassertion of non-Western cultures over against colonialist presumption', have led some to note 'a rare instance when an international relations text has intersected the concerns of post-colonialist literature' (e.g. Darby and Paolini, 1994: 380). The ES has also looked at the ideas of post-colonial nationalism and self-determination, to the related processes of decolonisation (e.g. Mayall, 1990: 111-144; Jackson, 1990; 1993), and to the ever present legacy of colonialism in Africa (Mayall, 2005).

Regarding the history of the idea of defective polities and related international practices, there are also a number of important contributions to be mentioned. Reference was already made to Bull and Watson (1984), Gong (1984), and Bain (2003a). Within the ES, Wight (1952; 1991) is perhaps the most neglected author in this regard. As Epp (1998: 56) notes, 'long before it could be intellectually fashionable, Wight's lectures put the problem of relations with the other, the outsider, the barbarian, at the moral-ontological centre of the study of international relations.' In *British Colonial Constitutions 1947* (1952), Wight provided an extensive analysis of constitutional, legislative and administrative aspects of the governance of dependencies of the British Empire. In *International Theory* (1991: 49-98), Wight referred to the 'fit of world conquering fanaticism' that characterised 'the Greeks under Alexander, the Arabs under the first four Caliphs, the Mongols under Genghis Khan or the West since 1500.' He reflected upon the Greeks and Romans' views of 'the barbarians', as well as on the issues of difference, paternalism, colonialism, and anti-colonialism. Nevertheless, the nature of the issue of failed states is still pointed out as worthy of being explored by future ES investigations (e.g. Watson, 2007: 12).

The assessment that the narrative/explanatory mode dominates the ES accounts of the history of international society (Keene, 2008: 386-387) amounts to a misrepresentation of what is a far more complex body of work. A fine example of how most ES approaches to history have avoided the narrative mode is the school's rejection of reductionist definitions of empire/imperialism, as well as of explanatory accounts of the motives behind imperialism. Above all, the ES historical investigations are in line with the idea that there are 'imperialisms rather than Imperialism' (Reynolds, 1981). It should be mentioned in this regard that the task of defining empire and

related notions such as imperialism and colonialism has always been a controversial one. Attempts range from 'narrow definitions of empire as the formal annexations of conquered territory', to much broader notions that encompass 'any form of international economic inequality' (Doyle, 1986: 20). This controversy and contestation is also present among historians. Gallagher and Robinson (1953: 1) noted how the 'imperial historian' is very much dependent on 'his own particular concept of empire', and on his own selection of the facts he sees as of 'imperial significance.' Also the forms of imperial control can be of diverse nature. In this regard, 'informal imperialism' (Gallagher and Robinson, 1953: 1) can be related to a number of notions. These include: (a) 'spheres of influence', whereby 'competing great powers delineate their areas of dominance'; (b) 'neo-colonialism', as popularised by Ghanaian President Kwame Nkrumah; (c) 'dependency', as (re)adopted by a group of Latin American intellectuals; or (d) cultural imperialism, namely the role of communications technology, language, or education. Moreover, imperialism as a concept can be seen as a philosophy (e.g. the *mission civilisatrice*) and/or a policy (Stern, 2000: 193-199). Accounts of the motives behind imperialism have included psychological explanations such as fear, prestige, or even the attempt of distraction from domestic issues. There also structural theories of imperialism, ranging from views of power as expanding indefinitely until demise comes; sociological accounts that see imperialism as 'an outcome of elitist, authoritarian, and despotic governments'; or economic theories that see in capitalism and the financial interests of a variety of groups the main driving force behind modern imperialism (Stern, 2000: 204-206; Doyle, 1986: 20).

The criticism that the ES largely ignores or overlooks imperialism and colonialism in the history of international society is further dismissed by the fact that members of the school have contributed to the view that hierarchy and anarchy, far from being mutually exclusive, most often coexist. As Hobson (2002: 18) notes, this can be observed in the works of Wight (1977), Bull and Watson (1984), Clark (1989), and Watson (1992). The ES historical investigations support the idea that one is very likely to find elements of hierarchy in the history of any international system and of international society. Seeing international politics as a pendulum swinging between the

notions of absolute independence and absolute empire as advanced by Watson (2007), with hierarchy and anarchy as ideal types, brings clarity to this issue. The essential idea to keep in mind is that there is much more complexity in practice than what the dichotomy of hierarchy/anarchy indicates; international systems of states continuously 'tighten and loosen'; and the relationships between the various political communities of the system shift constantly along the spectrum (Watson, 2007: 19-22).

The history of what is often called modern international society is also the history of the sovereign state. Members of the ES have tended to emphasise a notion of novelty associated with the emergence of international society. They are aware that various others 'hybrid political communities' preceded the rise of sovereign states (Van Creveld, 2004:1-51). In recent years, the idea that Westphalia represents the defining moment of the modern states system has been convincingly challenged in IR (e.g. Osiander, 2001; Teschke, 2003; De Carvalho et al, 2011). While the ES has looked at the history of pre-Westphalian international relations (e.g. Wight, 1977; Watson, 1992), Buzan and Little (2000) are the first authors within the ES to deliberately challenge the Westphalian divide. Nevertheless, these interpretations that challenge the treaties of Westphalia as the key moment in the emergence of the sovereign state are not incompatible with the ES's account of the emergence of international society, quite the contrary. The notion that there is something unique about the modern states system, including the process of universalisation of the state that led to the first global international society of mankind, still stands. This process is a result of the expansion of European empires (Bull and Watson, 1984), and the consequences of the imposition of an alien model of political organisation were deeply felt, and are still a reality today (Mayall, 2005). But no less relevant is to comprehend how the state and the idea of a universal right to sovereignty became 'the institutional alternative to empire' (Reus-Smit, 2011: 207).

2.3 International Conceptual History

This thesis maps the perpetuation of an idea and category, and thus it highlights a notion of continuity. However, it is also mindful of the issue of change, namely in the practices and norms that form the context of the history of that idea. Bellamy (2004: 7) argues that 'why and how do the norms, interests, and rules that underpin international societies change and sometimes erode and dissolve' is one of the major historical questions 'yet to be answered satisfactorily' by the ES. It is important to recall that, for the ES, norms are effects – effects that are the result of a complex social context, and not causes. As claimed by other scholars (e.g. Williams, 2005), it is not only possible but desirable for the ES to be concerned with the issue of change, as long as the focus on understanding/interpretation is not undermined.

With these considerations in mind, this project combines an ES approach with the history of ideas/*international* conceptual history, a step seen as promising by various scholars (e.g. Holden, 2002: 255; Hobson and Lawson, 2008: 428; Navari, 2009: 10-12; 2009b: 41-42). As Navari (2009b: 42) puts it, 'the closer mode' to the ES's focus on understanding the history of international society 'is Quentin Skinner's concern with context and intent, with original meanings and concepts in context.' Moreover, as mentioned above, Wight himself was a historian of ideas, and recent studies of the ES (Bain, 2003a; Jackson, 2007), have added to his legacy.

Equated with a 'humanistic turn in parts of the social sciences', conceptual *history* 'studies concepts as interesting and relevant in themselves.' It is thus a different exercise from conceptual *analysis*, which traditionally belongs to the realm of political science and where the aim is usually to come up precise definitions for concepts. As Waeaver (2002: 9) puts it, in conceptual analysis the study of concepts is 'not in itself informative.' There are three main schools of conceptual history, the French tradition, the German School, and the English School, often referred to as the Cambridge School (CS). These three gave rise to other projects of conceptual history, such as the work on history of ideas developed in the US by Arthur O. Lovejoy in the *Journal of the History of Ideas* and in the *Dictionary of the History of Ideas* (Richter, 1995: 22).

The French tradition, grounded on a category of historiography known as the Annales School, of which the leading figure was Fernand Braudel, focuses essentially on the *histoire des mentalités*. This tradition was further expanded by the influence of Foucault and his contribution to discourse analysis, genealogy and ‘systems of thought.’ It can be described as essentially critical in the sense that its main purpose is to expose the ‘tensions and contradictions of a given discursive system’ (Waever, 2002: 13 and 18). Not surprisingly, the French tradition has been a major influence for post-structuralist IR scholars.

The German School (*Begriffsgeschichte*) of conceptual history extensively explored the history of numerous political, social, and philosophical concepts used in Germany and France. Led by Reinhart Koselleck, as Waever (2002: 11-13) explains, the German School’s ‘encyclopedic projects focused on the study of either the changing meaning of one given concept (composed of one or two words), or on whole families of concepts.’ Koselleck believed that a ‘concept condenses in itself a multitude of context of meaning and experience’, and thus, ‘by studying all meanings of a term... and all terms in a language for the same meaning’ the German School of conceptual history ‘aims at grasping a whole semantic field of political vocabularies.’ There is an important difference between writing the history of words or terms based on what these terms meant originally (etymologies), and doing conceptual history. The aims of the latter are more ambitious and theoretical, and go beyond simply tracing words and their shifts in meaning. Instead, according to Koselleck, the logic of focusing on conceptual continuities and changes lies on the notion of conceptual changes as reflection of periods of crisis or revolution in politics and society. In other words, the changes or shifts of important concepts, usually the result of a contestation, provide valuable lenses with which to identify and understand political and social change, and shed light on the values and interests that are subject to disagreement (Richter, 1995: 5, 10).

The CS of conceptual history shares with the German School a concern with treating political language historically, and the view that, as Richter (1995: 124) explains, both ‘political thought and behaviour now and in the past, cannot be understood without reference to the distinctive

vocabularies used by agents.’ Discourse in the CS is understood in a less restrictive sense than in the French tradition. The CS notion of discourse is a broader one that includes ‘speech’, ‘literature’, and ‘public utterance in general’ (Richter, 1995: 127). A crucial difference between the French tradition and the German and British Schools is both the latter’s refusal ‘to collapse history into discourse’ (Melching and Velema, 1994: 4). The two essential authors of the CS are John Pocock and Quentin Skinner. Beyond Pocock and Skinner, authors such as John Dunn (Tuck, 1993: 77-79) and Peter Laslett (Perreau, 2007: 107-108) played an important part in the development of the CS. Moreover, a number of figures influenced the CS, including Collingwood, Wittgenstein, Austin, and Weber (Goldie, 2006).

While Pocock is known for his ‘identification of distinct political languages, ideologies or ‘discourses’’, Skinner’s work focused on a ‘more methodologically reflective demonstration of how historically defined linguistic limits shape political developments’, inclusively through speech act theory (Waeber, 2002: 11). Skinner’s central influence in this regard was John Austin (Richter, 1995: 130). Austin’s (1962: 12) theory of speech acts holds that speech is also action, an idea efficiently conveyed by Wittgenstein’s remark that ‘words are also deeds’ (Skinner, 1988b: 260). Thus, ‘language is not only the medium by which we describe politics, it makes politics possible, and much of politics is done in the form of language’ (Waeber, 2002: 11). In this perspective, language has two dimensions: meaning and function. While the first dimension refers to ‘the study of the sense and reference allegedly attaching to words and sentences’, the second is understood in Austin’s sense as ‘the range of things that speakers are capable of doing in (and by) the use of words and sentences.’ In other words, while meaning refers to the social connotation of the concept, function refers to the legitimating effects of concepts and their normative power (Skinner, 2002: 1-4).

Probably the greatest influence in Skinner’s work was Collingwood and his opposition to British positivist historians, and their scepticism regarding understanding. The effort to understand human conduct is well expressed in Collingwood’s *Idea of History* (1946), where he argued that any attempt to explain past historical actions necessarily involves an effort ‘to discern the thoughts’ of the actors that performed those actions (Skinner,

2002: 129). Instead of writing history as an attempt to 'answer a canonical set of questions', Collingwood believed that history of political thought should be written as 'a sequence of episodes in which the questions as well as the answers have frequently changed' (Richter, 1995: 130-131). While Skinner often called for caution regarding the connections between past and present in the study of history, he gradually moved away from this position (Bevir and Rhodes, 2007: 247). Skinner's cautiousness probably derives from his scepticism regarding 'grand narratives.' In particular, Skinner was very critical of the Whig interpretations of history that described England 'as the culmination of a happy history of freedom, thanks to the Reformation and the Glorious Revolution of 1688', and that led to Herbert Butterfield's renowned critique *The Whig Interpretation of History* (1931) (Perreau, 2007: 106).

As Tully (1988: 8) explains, 'Skinner was mainly preoccupied with how can one identify ideologies and their formation, how to survey and map this process, and the relation between political ideology and political action.' The term 'ideology' in the CS context does not refer to specific ideas such as liberalism, republicanism or Lutheranism. Ideologies in "Skinnerian" terms ought to be understood as 'normative vocabularies'. This emphasises the issue of 'linguistic action' and the need to go beyond the meaning of ideas to study utterances, the functions that political ideas serve, and the normative and legitimising potential of concepts (Palonen, 2003: 3, 56, 78-79). Skinner analysed what ought to be the most accurate way to study a text, insisting in the importance of recovering the historical meaning of the text as the necessary condition to understand it, a process that, according to him, 'can never be achieved simply by studying the text itself' (Skinner, 1988a: 104). Instead, what ought to be done is 'to situate the text in its linguistic or ideological context,' defined as 'the collection of texts written or used in the same period, addressed to the same or similar issues and sharing a number of *conventions*', the term Skinner used to refer to 'linguistic commonplaces uniting a number of texts' (Tully, 1988: 8-9).¹⁸

When it comes to history of ideas, this project's approach is based first and foremost on the CS. It also draws from the German School, namely Koselleck's notion that conceptual changes can be a reflection of periods of crisis or revolution in politics and society (Richter, 1995: 10, 124-127). It

should be noted that this combination of the CS with the German tradition has been described as both natural and promising (e.g. Skinner, 2002: 186-187; Melching and Velema, 1994: 2; Richter, 1995: 5). An important difference between the CS and the German School is the former's more pragmatic stance regarding meta-theoretical questions, and the ability not to allow its efforts to be dominated by such questions. This was something that the German School had more difficulties with, as exemplified by its obsession with the nature and causes of modernity (Richter, 1995: 125). As mentioned above, the French tradition has tended to focus rather exclusively on words and discourse while ditching historical context. This constitutes a fundamental contrast to CS's underscoring of the importance of reading things in context. To avoid issues of incompatibility, and due to the importance placed here on comprehending historical context, this study does not draw from the French tradition.

The CS's study of history based on understanding, or in Skinner' (2002: 1) words, of 'seeing things their way', in looking both at the meaning, function, and normative potential of language, is very much in tune with the ES cognitive goals. It is now pertinent to explain in more detail how the insights from conceptual history inform the ES approach of this project. As mentioned in the introduction of this study, the concept of failed states rose to international prominence in the early 1990s. Yet the more historically informed literature indicates that the nature of the issue is not an exclusive feature of the post-Cold War. According to the CS, an isolated history of a concept will have very limited results. What is needed instead is 'to work across concepts in order to be able to reconstruct the larger discourses and/or ideologies in which these concepts obtain their meaning'. This allows a proper understanding of the context one is studying, but also an escape from the potentially misleading assumption that 'a story' lies exclusively in one concept (Waever, 2002: 13). Instead of tracing an 'etymological line' of a single word, there is the need to identify the genesis of the concept by looking at the 'concept's pre-history' (Farr, 1989: 38). This implies that to understand the nature of the issue of failed states in international society, one ought to look to the historical period that precedes the emergence of the concept of failed states in the early 1990s. Thus, one is required to study

other concepts in international society that preceded failed states but expressed the same idea of defective polities. This project not only does conceptual history but points to a more ambitious goal of doing *international* conceptual history. This task demands, as Waever (2002: 17) argues, to look at 'how conceptual moves relate to international discourses, both among states (and other units) and internally in relation to international questions (in the languages of diplomacy, international law and war).'

As discussed in the introduction of this study, a number of scholars claim that the concept of failed states represents a category and performs a function. That concepts perform political and social functions is one of the central precepts of the CS, reflected on the notion of the 'legitimising potential' of vocabularies (Palonen, 2003: 78-79). The dual nature of concepts, i.e. meaning and function, implies, as Skinner (2002: 156) puts it, that their 'availability... is a question about the prevailing morality of their society', and that their 'applicability is a question about the meaning and use of the terms involved, and about how far these can be plausibly stretched.' As Goldie (2006: 7-8) notes, Skinner (1978) wrote the following in his most famous book:

The problem facing an agent who wishes to legitimate what he is doing at the same time as gaining what he wants cannot simply be the instrumental problem of tailoring his normative language in order to fit his projects. It must in part be the problem of tailoring his projects in order to fit the available normative language.

From this follows, as Goldie (2006: 7-8) puts it, that 'deeds are predicated upon the possibilities and constraints which words offer.' Thus, conceptual changes reflect moral changes in politics and society.

Concepts 'do not have an agency or life apart from the political actors who use and change them', and thus it is the "job" of conceptual history to attempt to comprehend 'why these actors used and changed them as they did' (Farr, 1989: 38). The CS emphasis on conceptual changes as possible reflections of changing social norms is another important insight for the purposes of this study. According to Bell (2002: 328), 'by concentrating on conceptual change and the constitutive role played by language in shaping

the normative architecture of (any given) society, we can reach a more sophisticated understanding of language in both the reproduction of social norms and conventions and consequently in the process(es) of change itself.' We can also, he argues, gain a better understanding of how 'political legitimacy is embedded in and constrained by the set of political vocabularies available at any given time.' This relationship between political legitimacy and political vocabularies points to the notion practices and is associated with what Navari (2009a: 12) calls the 'self-conceptions of the actors', related to the idea that 'the actors discourses of self-justification can be a major source for detecting norm change.'

Moreover, because concepts are not subject matters, the CS highlights the importance of context. As Navari (2009a: 10) argues, to theorise 'causes demands theorising context, as well as the relationship of action to context.' If not delimited, the exercise of contextualising can be both too broad and also a rather undetermined notion (Holden, 2002: 262). Therefore, in this project the context of this international conceptual history is primarily the history of international society, and in particular the interests, norms, values, and beliefs that informed its relationship with those polities seen as defective.

Finally, there are differences between word, concept and idea. According to Waever (2002: 13-14) 'a *concept* can be defined as something in between *word* (a purely textual phenomenon) and *idea*: more independent than a *word* in terms of linguistic expression, but not as independent as an *idea*.' Yet, as Richter (1995: 21) argues, there is little or no point in trying to come up with 'stipulative definitions of concept and idea.' Given the ambiguity of 'concept' as a philosophical term, 'the meaning of concept can be determined only within the context of a theory and cannot be satisfactorily defined in isolation.' In this project we see failed states as a concept. Moreover, it belongs to a list of concepts prevalent in *international society* that refer or did so in the past, to the idea of defective polities. We use the terms 'prevalent/preponderant' when referring to a group or list of concepts to underline the fact that, as Koselleck (1985: 113) notes, 'only concepts with a claim to durability, repeated applicability, and empirical realisability' are an appropriate object of study for a conceptual history. The terms

prevalent/preponderant also highlight the importance accorded both by the ES and the CS to 'intersubjective understandings', namely the idea of 'shared meanings' (Navari, 2009b: 41).

2.4 Concluding Remarks

To shed light on the idea and category of defective polities in the history of international society, and understand what the role of international law/state sovereignty in its perpetuation was, we combine an ES approach with insights from international conceptual history/history of ideas. The ES framework of this thesis entails a historical-empirical approach, based on the sociological interpretation of human conduct. The aim is to understand the practices, i.e. norms, interests, beliefs, and values that generated, shaped, and changed the concepts that expressed the idea we are concerned with. This approach is in line with the move towards methodological pluralism. In this case a useful notion to keep in mind so as not to exclude any level of analysis that can be of assistance to shed light on those concepts. Regarding the role of international norms and rules, the ES rejects the view of norms as independent variables and the argument that they can be an important cause/driver of behaviour in international society. Instead, and by definition, to comprehend the nature and role of international rules, one ought to understand the nature of the society from which these rules emanate. Generally speaking, the ES study of history has rejected causal propositions and explanatory views of the history of international society. This applies to the ES treatment of issues such as the universalisation of the sovereignty state or empire and related notions of imperialism and colonialism. Based on the legacy of the ES, this thesis adopts a sociological approach to history, grounded on the importance of understanding context and the politics and the minds of the peoples of a given historical time. This exercise has the purpose of shedding light on one's present concerns.

The importance of understanding context and seeing things through the perspective of those who live through the events are two essential tenets of the CS. The combination of an ES framework with a number of insights from history of ideas/international conceptual history, especially the CS and

to a certain extent the German School is a move compatible with the ES cognitive goals. More important, international conceptual history is a meta-theoretical line that offers a way to understand change and continuity in international society, namely in relation to prevailing and contested values, interests and beliefs. It is sensible to the connections between the distant and more recent past, while providing a sophisticated approach to identify political and social change. In this regard, it highlights how concepts are a product of the normative vocabulary available to actors, and how normative changes reflect contestation surrounding the values and interests that form the social context of those concepts.

Chapter 3 - On Infidels, Pagans and Barbarians

But where there is some reasonable doubt as to whether an action is good or bad, just or unjust, then it is pertinent to question and deliberate, rather than acting rashly without any prior investigation of what is lawful and what is not.

Francisco de Vitoria (in Muldoon, 2006: 141)

3.1 Introductory Remarks

The emergence of an international society of sovereign states in Europe is best comprehended when bearing in mind the political system from which that society departed (Jackson, 2007: 24). Hence, this chapter starts with a few considerations about Medieval Latin Christendom. Of particular relevance for our purposes are the crusades, one of the dominant international political developments of that era. In the context of the crusades, the aim is to identify the concepts that referred to those polities seen as defective, and understand the functions these concepts served. This matters insofar to comprehend if that idea and category is a product of the rise of the norm of state sovereignty, or if it preceded the latter. The aim is also to comprehend the role played by Christian faith and canon law in the crusades. Another goal is to illustrate some of the normative debates that characterised the crusades, some of which would reappear in the context of the conquest and colonisation of the New World.

The second section of the chapter contextualises the early Spanish and Portuguese overseas expansion. Again it looks at the place of faith, canon law, and natural law in that enterprise. It attempts to shed light on the motives and interests behind that expansion into the Atlantic and the Americas. It also illustrates how the conquest and colonisation of the Americas became the topic of an intense and polemic debate in Spain, namely regarding the rights of the Indians and the treatment they received at the hands of the Spanish *conquistadores* and colonisers.

The colonial encounter in the Americas is seen by a number of scholars as a retreat from medievalism and canon law, whereby the development of the doctrine of state sovereignty contributed decisively for the legitimation of European colonialism. In this perspective, the conception of a law of nations devised by the scholastic Francisco de Vitoria is pointed out as instrumental for the pursuit of the Spanish Kings' imperial quest. It is consensual that his contribution to the development of a *jus gentium* later advanced by the likes of Suárez and Grotius was a central one. From this consensual point follow two discussions, which are relevant for our purposes not only in relation to the Spanish colonisation of the Americas, but also to the subsequent considerations about the relation between imperialism/colonialism and international law. These discussions revolve around: (a) the possible deliberate intention of Vitoria and of the Salamanca School to create a range of not only ethical but legal arguments that provided the legitimating basis for the actions of the Spanish colonisers in the Americas; and (b) the legacy of Vitoria's arguments when it comes to the rise of an inherently imperialist/colonialist norm of state sovereignty. Therefore, the third section of the chapter outlines these views, to then reflect on Vitoria's natural law of nations' conception, and on how his ideas related and applied to the affairs of the Indies.

3.2 A Divine Right to Christianise

The *respublica Cristiana* was, as Watson (1984a: 13) describes it, 'organised horizontally across the whole Christendom.' God as the highest authority above religious and secular powers was the commanding idea, one that worked as the moral standard against which all conduct was judged. Even the figure of the secular emperor, held by the Habsburgs since the later Middle-Ages, was at the service of Christ. It was the duty of every member of this Christian community, from the pope and the emperor to barons and clergy, to defend it (Jackson, 1999b: 436-437). Christian faith provided a sense of community and an unrivalled justification for political government. The expansion of Islam into lands inhabited by Christians (in Southern and Eastern Europe, Asia Minor, Persia, and Africa) was a threat that reinforced that sense of unity. By the High Middle-Ages, the idea that Christendom was

a community 'spiritually defined, ecclesiastically organised, and geographically delimited' had become an established reality (Brown et al, 2002: 177).

Nevertheless, this general characterisation hides a much more complex picture about the politics and governance of Christendom. According to Brown *et al* (2002: 177-181), because both secular rulers (secular in the sense of not being members of the Church) and the figure of the pope received their authority from God, conflicting views about who possessed the ultimate authority within Christendom often arose. This division was essentially one of legal interpretation between those who saw the pope as the supreme ruler of Christendom, over both church and secular rulers, and those who believed that secular rulers and church had equal authority. A noteworthy case of a challenge to the pope's authority is the controversy that arose between the French king Philip IV (r. 1285-1314) and Pope Boniface VIII over the former's right to tax and regulate the French church. In *On Royal and Papal Power* (1302), the Dominican John of Paris defended the French king by arguing that there should be only one ruler within a political community (Brown et al, 2002: 179-180). Furthermore, Christendom was not a unified hierarchy but rather a dual one, given the split of the Roman Empire into Western and Eastern spheres, with centres in Rome (Catholic) and Byzantium (Orthodox), conquered by the Ottomans in the mid-fifteenth century (Jackson, 2007: 25).

Although it is possible to trace the idea of a pluralistic, secular rule to medieval Europe, that idea would only start to gain ground across Europe by the sixteenth century. As Jackson (2007: 23) rightly notes, to speak of the existence of the state, nation, and of sovereignty 'understood in ideal terms as an authority that is supreme over all other authorities in the same territorial jurisdiction, and is independent of all foreign authorities' in relation to medieval Europe is misleading. There were various kingdoms/*regna* and territorial lordships of diverse size. Kings had to face a number of rivals apart from other kings: the Church, including the pope and his clerical administrators in Rome but also their representatives; the feudal nobility, who often resisted and questioned the authority of the king; or local authorities, namely cities which were semi-independent (e.g. London). Authority was

constantly disputed, and wars were fought between popes, kings, powerful nobles, mercenaries and medieval knights. There were no internal borders demarcating separate territorial jurisdictions, and there were a number of overlapping laws and regulations. There was also no clear conception of different dimensions of life, including politics and religion, or a separation between private and public spheres. According to the Oxford English Dictionary, 'sovereignty' had a number of meanings in the medieval era, including 'a husband in relation to his wife', 'a mayor or provost of a town', and 'the Superior of a monastery', but the meaning of 'sovereignty understood as the supremacy and independence of a state' is only 'clear by the sixteenth century.' This rather fragmented political space might raise doubts about the existence of an overarching authority. Yet the sense of a cosmopolitan Christian Commonwealth, 'devoted to Christian redemption and salvation', as well as the duty to defend this community (Riley Smith, 1977: 11), were the most powerful elements behind political ideas and actions of this era (Jackson, 2007: 19-35).

The crusades, a philosophy and policy of both conquest and reconquest, initiated in 1096 and that lasted until the mid-sixteenth century, expresses very much this sense of Christian unity (Horowitz, 2009: 163). A crusade can be defined as a 'religious, legal, and military enterprise that had to be proclaimed by the Pope, preached by the Church, open to volunteers from all Christendom, and justified by reference to the interests of the whole' (Watson, 1984a: 12-14). As Watson illustrates, 'this medieval expansionary drive beyond Christian frontiers was led by rulers and knights, and appealed to merchants and to the common man, as faith, trade, warfare, prestige, land and new techniques and ideas formed a complex yet politically compatible range of motives and goals.' The powerful incentive provided by the Church – 'in God's honour and for the redemption of mankind' – disguised the motives of profit, fame, or vengeance. However, to see religion simply as an instrument legitimising other goals, and to downplay its importance as a true motive would be a fundamental misunderstanding of the whole process. As Horowitz (2009: 174) puts it, 'in exchange to this service to God, the Church offered those who participated in the crusades remission of all sin.'¹⁹

The conviction that Christian faith was 'the beginning of truth', i.e. fideism, and that the right to exercise government was dependent on the possession of faith (Donelan, 1984: 75), was the commanding idea of this era and of the crusades. The centrality of canon law as a legitimating force for the crusades, making them legal in the eyes of Medieval Latin Christendom, ought to be read as a natural outcome of the preponderance of Christian faith in all aspects of life. According to medieval theory of universal papal jurisdiction, the pope had a divine and a legal responsibility, as well as an undisputed legal authority in this matter, to pursue the vision of a universal Christian community. Regardless of the existence of strategic concerns such as the defence of European territory and conquered lands from the infidels' armies, the infidels were unsuitable for self-government because they were not Christian, or in the words of Pope Urban II 'a race completely foreign to God' (Williams, 2009: 29, 35). This status made them unequal subjects under the Church's law. This fed into the sense of duty to bring, i.e. impose by the sword, Christianity on behalf of the redemption of all mankind (Watson, 1984a: 12-14), in which the infidels/pagans – a concept most often referring to the Moslems, Saracens, Moors, Arabs, and Turks (Tolan, 2002: xv, 4) – were included despite their non-Christian status.

At least since the early thirteenth century, European intellectuals and clergyman criticised the brutalities committed by the crusaders to the non-Christian peoples they encountered. Consequently, the issue of the rights of the infidels began to be considered in relation to those living within Christianity as well as those living on its borders. Pope Innocent IV (1243-1254) was the first leading canonist to develop a papal theory of relations with non-Christian societies. He asked the following question: 'is it licit to invade the lands that infidels possess, and if it is licit, why is it licit?' This led to a widespread discussion regarding papal relations with infidel societies, including the topic of peace between Christians and non-Christians. Innocent's thoughts about the matter were based on the idea of natural law under which all men had the right to possess property and lordship (Muldoon, 1979: vii, 5-28, 153). Yet his application of a universal natural law was determined by the Christian-infidel/pagan dichotomy that was preponderant at the time, and thus infidels did not enjoy of equal rights. In the words of

Pope Innocent, the non-Christian peoples 'belong to Christ's flock by virtue of their creation, although the infidels do not belong to the sheepfold of the Church' (Williams, 1990: 14). From this followed, as Williams (1990: 14) notes, that the pope who possessed jurisdiction 'over all men and power over them in law but not in fact', was responsible for the infidels, irrespective of whether or not they recognised his lawful authority.²⁰

Backing the role of the pope in providing the legal support for the crusades was the idea of just war. Ever since what is generally seen as the first crusade, proclaimed by Pope Urban II in 1095 to help the Byzantine Emperor Alexius I Comnenus against the Turks' invasions, the idea of a just cause in terms of the recovery of property or of defence against aggression was always used to justify the crusades (Riley-Smith, 1977: 21). The legacy just war theorists was central in this regard. The likes of St. Augustine and St. Thomas Aquinas elaborated a normative framework, based on a number of ethical and legal precepts, with the aim of contributing to more peaceful and just human relations. This emphasis on justice was, of course, grounded on God's commandments which, for Augustine and Aquinas, were the unifying universal bonds of all peoples, races and political communities (Behr, 2010: 51, 65-66). Yet their thoughts were based not only on the language of theology, but also of a non-discriminatory natural law. Their concerns were not restricted to issues of justice within Christendom. They considered questions of justice and diversity among all men (Brown et al, 2002: 183-185).

In *The City of God*, Augustine developed the notion that the only desired outcome of a just war must be peace. He equated war with misery. According to Augustine

the human race is made even more miserable, either by warfare itself, waged for the sake of eventual peace, or by the constant fear that conflict will begin again. I could not possibly give a suitable eloquent description of these many evils, these manifold disasters, these harsh and dire necessities ... Let everyone, therefore, who reflects with pain upon such great evils, upon such horror and cruelty, acknowledge that this is misery. And of anyone either endures them or thinks of them without anguish of soul, his condition is still more miserable; for he thinks himself happy only because he has lost all human feeling (in Behr, 2010: 68).

From this scenario of tragedy and misery followed that all war ought to be avoided. Nevertheless, as Riley-Smith (1977: 34) explains, Augustine's suggestion that warfare could only be legitimised by a figure of authority provided a solution to the moral dilemmas of Christians regarding war as a sinful action.

The view of war as a consequence of sin was inherited by Aquinas from Augustine. In a number of writings that include *Summary of Theology* (1265-1273), he discussed the circumstances when war could be waged without sin. For Aquinas, although war was a sin, it could also be a means to combat sin, if waged *by the ruler* – the only figure entitled to do so – to punish aggression or other offenses, with a *rightful intention* and for the *common good*. As he put it, 'those who are attacked should be attacked because they deserve it on account of some fault', and those who wage war should 'intend the advancement of good or the avoidance of evil.' Crucial within this formulation was the internal motive or spirit of the ruler waging war. Greed, glory, pride, hatred, and so on could never be the driving force of a just war (Brown et al, 2002: 183-185).

The Christian just war tradition has been criticised among other things by its vagueness and over-simplification of a legacy that was more coherently elaborated by previous thinkers of this tradition such as Cicero (Behr, 2010: 50). One of the arguments used to justify that accusation is the fact that while Aquinas does speak of the ruler as the only authority that can declare war for it to be just, he does not specify who that ruler is (pope, king, or noble) (Brown et al, 2002: 185). More important, although they spoke of justice, peace, love towards neighbours and enemies, and of the need to avoid all war, the legacy of Christian just war theorists is often seen as having provided the legitimating basis for holy war against the infidels/pagans. These wars were indeed characterised by those who wage them as wars of self-defence. In this logic, Behr (2010: 68-69) argues that 'the unrestricted legitimisation of wars in the name of Christianity is the main reason why it is impossible to deduce and accomplish a coherent pacifism from Christian orthodoxy.'

Neither Augustine nor Aquinas, however, talked explicitly about 'self-defence', a term that in the time of the crusades was stretched to such an extent that rendered the concept almost meaningless. Instead, they spoke of wars which were 'imposed upon' (Behr, 2010: 68-69; Brown et al, 2002: 184). In this regard, it is interesting to note that Augustine began to write *The City of God* three years after the 'barbarian' invasions of Rome (Merton, 2000: xv). It is true that the idea of just war provided an important legitimating element for the crusades. But it does not follow from this that moral tradition of just war theory was the cause of the crusades, much less that the intention of this tradition of thought was to come up with an instrumental argument that could serve the interests of particular policies of expansion. It is important to recall that this tradition occupies the middle ground between pacifism, i.e. the notion that war is always wrong, and the view that war is not constrained by morality (Macmahon, 2007: 669).²¹

It is common in the literature about this era to see the notion of the civilising mission associated with the crusades. As Tyerman (2006: xiv) notes, 'the battles of the cross are held to presage the conflicts of European imperialism, colonialism, and western cultural supremacism.' Jackson (2007: 26) argues that 'converting barbarians to Christianity was conveniently an act of civilising them too: once they were Christians they could no longer be pagans or heathens or barbarians.' The civilisation-barbarity dichotomy seems indeed to have informed Latin Christendom's views of and relations with Islamic peoples in the early medieval era. The following words are part of a letter that Maximus the Confessor wrote from Alexandria in the first half of the seventh century, where he lamented the outcome of Arab invasions: 'What could be more dire than the present evils now encompassing the civilised world? To see a barbarous nation of the desert overrunning another land as if it were their own, to see our civilisation laid waste by wild and untamed beasts who have merely the shape of a human form' (Tolan, 2002: 43). These words ought to be read in the context of the establishment in the Near East, Egypt, the southern Mediterranean coast, and much of the Iberian Peninsula, of an Arab empire centred on the figure of the caliph of Baghdad, the Commander of the Faithful. By the ninth century, the threat to Christianity was a genuine one (Tyerman, 2006: 1, 54).

In its Greek origins, the concept barbarian meant foreigner, or non-Greek speaker. One account of the origins of the term is that of Homer's reference to 'bar-bar' speakers whom he could not understand (Mazlish, 2004: 2). It might not have had a depreciative connotation since its geneses, as barbarian applied to all foreigners, including Egyptians whom the Greeks respected. Yet there are indications that by the fourth century B.C. barbarian would refer to cultural or mental inferiors, who could not control their animal nature and did not possess the faculty of reason (Pagden, 1982: 15-18). However, Plato questioned this exercise of grouping all non-Greeks under one single term. The following words are part of dialogue between 'young Socrates' and the 'visitor' in *Statesman* (1995: 11):

Young Socrates: Well, perhaps you could explain what mistake I was making when I was trying to categorise things just now.
Visitor: All right, here's an analogy. Suppose one wanted to divide the human race into two parts. What most Greeks do is to make the division by separating Greeks from all the rest: they use the single term 'barbarian' for all the other categories of people, despite the fact that there are countless races who never communicate and are incompatible with one another, and then expect there to be a single category too, just because they've used a single term.

As it is possible to assert, Plato reflected on the fact that to apply the concept barbarian to all non-Greeks was an exercise that obfuscated more than it illuminated.

In Ancient Greece the concept of barbarian is more commonly associated with Aristotle's notion of *polis* (city), and the idea that the good life, virtue, and civility were only possible within the *polis* (Brown et al, 2002: 24; Pagden, 1982: 15-16). Much has been written about Aristotle's position regarding the non-Greeks, and a possible sharp distinction he drew between Greeks and non-Greeks/barbarians. The idea that Aristotle did indeed believe in the Greek *polis* as the highest form of political community, and that this informed his views of the non-Greeks, is still dominant in the literature. He was, after-all, the mentor of Alexander the Great, who conquered 'barbarian' territories from Turkey to the Indian sub-continent. As Aristotle argued in *The Politics*, 'it is evident that the state is a creation of nature, and

that man is by nature a political animal. And he who by nature and not by mere accident is without a state, is either a bad man or above humanity; he is like the *Tribless, lawless, heartless one*, whom Homer denounced – the natural outcast is forthwith a lover of war; he may be compared to an isolated piece at draughts.’ Aristotle criticised the Scythians, Persians, Thracians, Celts, and Spartans’ glorification of war, domination and conquest. Although he thought that to conquer another community constituted a denial of the freedom of other human beings, he believed that offensive war was justified when a community of free men was under attack, or ‘when a community cannot rule itself’ (Brown et al, 2002: 18-27, 64). Aristotle emphasised the free nature of Greeks as opposed to the slave nature of barbarians, and recalled the suggestion of Greek poets that ‘barbarous people should be governed by the Greeks’ (Wight, 1991: 51). As Diller (1971: 18, 25) notes, ‘in spite of a few cosmopolitan spirits like Herodotus and the early philosophers’, the Greeks had very limited knowledge of the institutions and customs of foreigners. A good example is their unwillingness to understand the ‘barbarian’ languages. In his view, the result was ‘an exaggerated sense of their own superiority based on the assumption that they alone enjoyed the finer feelings and the nobler pursuits of human life.’ Thus, the Greek-barbarian dichotomy was a sharp one. According to Cartledge (1993: 11) it was ‘not just contradictory but jointly exhaustive and mutually exclusive.’

This dichotomy was inherited by the Romans from the Greeks, and as historians of the Roman Empire show convincingly (e.g. Burns, 2003: 12-41; Heather, 2006: 69-123), it was central in the Romans’ ethnocentric conception of the world and imperial expansion. As with the Greeks, Romans also believed that cities were the only place where a virtuous and civil life was possible. For Cicero, the Roman political community was the only *civitas*, and the ‘barbarians’ were ruled by the Romans ‘because servitude in such men is established for their welfare’ (Pagden, 1995: 18-21). Cicero drew this image from Aristotle’s theory that some men were slaves by nature. Yet, according to Pagden (1995; 22-23), the dichotomy civility-barbarity in Rome was less static than in Ancient Greece, in the sense that the will to export the *civitas* was much stronger among the Romans than in Ancient Greece. While Aristotle thought that the natural slave would never leave that condition,

Cicero believed that barbarians could be instructed, as Pagden puts it, 'in the ways of civil society.' Thus, Africans, Spaniards, or Gauls were entitled to just rule because, despite of their barbarous status, they could eventually be transformed in the image of Romans.

With the advent of Christianity, the *Imperium Romanum* became eventually the *Imperium Christianum*. The notions of singularity and exclusivity were as Pagden (1995: 24) outlines, 'further enforced by the Christian insistence upon the uniqueness both of the truth of the Gospels and of the Church as a source of interpretative authority.' Yet, in medieval Europe, the distinction between civilisation and barbarism inherited from Ancient Greece and Rome was increasingly replaced by the dichotomy dividing Christians and non-Christians, i.e. infidels and pagans (Brown et al, 2002: 177). Jackson's assertion that, in the minds of the crusaders, converting the infidel/pagan Muslims to Christianity amounted to an act of civilising them too, is not altogether misplaced. Nonetheless, the fact that the crusaders did not refer to 'barbarians' or to 'civilisation' reveals something about the predominant mind-set of the crusades and Latin Christendom's views of the Islamic world. The crusades were informed by the notion of a duty and right to Christianise rather than a mission to civilise. This difference is not one of semantics only. The preponderance of the Christian-non Christian dichotomy in medieval Europe's political vocabulary and imaginary ought to be understood as an outcome of the importance of Christian religion, the expression of the unity of Christianity against the non-Christian, i.e. infidel/pagan, as well as the legal (supported by the pope) and legitimating power of that dichotomy in the context of the crusades.

Moreover, the civilisation-barbarity dichotomy inevitably implies a sense of superiority of the civilised over the inferior barbarian beings, a sense which was not always prevalent in Christianity's views of the Islamic world. As Tolan (2002: xvi, 171) notes, from the ninth century up to the twelfth century, Christian Europeans 'explained Islam in ways meant to reassure their Christian readers of the superiority of Christianity.' They described the Arabs, Saracens, Turks and Mors as infidels/pagans, 'semi-human barbarians' who worshiped idols, practiced heresy and the cult of Antichrist. Yet the advance of Islam, in what constituted a conquest of unprecedented

proportions, generated increasing doubts within Latin Christendom about its own civilisational superiority. By the twelfth century, the Christian responses to the advance of Islam were essentially defensive, and included an effort to convince fellow Christians not to convert to Islam in the face of the prestige and power of the Muslim world. For various Christian authors, the Islamic invasions represented 'the coming apocalypse, the end of the world as predicted in the Holy Scriptures' (Tolan, 2002: 41, 171).

The relationship between Christians and infidels was far more complex than the simplistic picture of two opposing peoples claiming moral or divine superiority over each other. As Tolan (2002: xvii) explains, feelings of 'rivalry, contempt, and superiority have existed on both sides all through the intervening centuries, tinged or tempered at times with feelings of doubt, inferiority, curiosity, or admiration.' The concepts infidels/pagans did not refer exclusively to Muslims, but also to Prussians, Lithuanians, Tartars, Mongols, and so on. War was not a permanent state of affairs between Christians and non-Christian peoples, and there were many instances of missionary work that did not involve or result in armed conflict (Muldoon, 1979: 3, 29). Also, there were instances of willing assimilation/acculturation, as it happened with the crusading kingdoms in Spain and the Levant (Wight, 1991: 52). Moreover, the sense of unity that informed the military expeditions on both sides masked divisions between Sunni and Shi'ite on the one hand, and the Latin tradition and the Greek Orthodox on the other (Tyerman, 2006: 1-2). In spite of all these nuances, the concepts infidels/pagans were dominant in the crusaders' views of Muslims, and contributed to reinforce the notion of moral righteousness provided by the fideism that characterised the crusades.²²

3.3 The Catholic Overseas Expansion

The European world colonising system was inaugurated by the Portuguese and Spanish voyages of discovery and conquest based on a divine mandate to Christianise.²³ As with the crusades, the pope's legal support for this enterprise played its part, by providing the Portuguese and Spanish monarchs with an important legitimating basis for this enterprise (Williams,

1990: 59). The role of this divine mandate is exemplified quite well in the Portuguese occupation of the Canaries, and the Spanish conquest of the New World. Yet, this period witnessed the gradual demise of the papacy's dominant position in the definition of relations of Christian powers with the non-Christian world. The rhetoric of crusade was still appealing, but the Spanish and Portuguese rulers were increasingly in charge of directing their Christian expansionist policies. They informed the pope of their activities, justified the expansion with the will to spread Christianity, but they were seeking papal backing for policies that were already under way (Muldon, 1979: 132-133).

In the words of King Duarte of Portugal (1433-1438), in the context of the crusades in Africa, the inhabitants of the Canary Islands

...are not united by a common religion, nor are they bound by the chains of law, they are lacking normal social intercourse, living in the country like animals. They have no contact with each other by sea, no writing, no kind of metal or money. They have no houses and no clothing except for coverlets of palm leaves or goat skins which are worn as an outer garment by the most honoured men. They run barefoot quickly through the rough, rocky and steep mountainous regions, hiding... in caves hidden in the ground (in Williams, 1990: 69).

These words above are an excerpt from a letter written by the Portuguese king in which he contrasted the infidel Canarians, who lived under no form of law, with the Christian Canarians recently converted by the Portuguese. The latter had been provided with 'laws and an organised form of society... Where the name of Christ had never been known, Christ is now worshipped', king Duarte wrote (Williams, 1990: 69).

The papal bull *Romanus Pontifex* of Nicholas V (1455) praised the Portuguese advances in the African coast and encouraged the Portuguese to 'not only restrain the savage excesses of the Saracens and of other infidels, enemies of the Christian name', but also compelled the Portuguese to 'vanquish them and their kingdoms and habitations' for the sake of the 'defence and increase of the [Christian] faith.' *Romanus Pontifex* authorised King Afonso V, who succeeded King Duarte, 'to convert the barbarous natives and control the islands on behalf of the papacy', and gave the Portuguese the right of *dominium* over all territories discovered and

conquered.²⁴

The rediscovery in the *Renaissance* of the Roman right of *dominium* is understood in the literature as an important development towards the rise of the doctrine of state sovereignty. Indeed, Roman law influenced the work of the post-Medieval Europe theologians and lawyers that developed the doctrine of a natural law of nations (Kingsbury and Straumann, 2010: 1-5). There is, however, less a consensus about what that right of *dominium* referred to exactly. On the one hand, Kratochwill (1995: 25) contends that the core of the idea was the notion of mutually exclusive areas for the exercise of supreme authority, which derived from the arrangement in Roman private law of the *dominium* of a property holder. Holland (2010: 540) argues instead that it was the notion of representation that was recovered from Roman law, echoing the idea of the nation-state.

The bull *Romanus Pontifex* was, according to Williams (1990: 8, 13-67), part of the legal framework whereby Europeans asserted that 'unless non-Christian peoples would act according to the European's totalising normative vision of the world, they could rightfully be conquered and their lands confiscated by Christian Europeans, for violating the Eurocentric vision of natural law.' Consequently, Europeans would enforce their vision of a 'universally binding natural law.' While Williams correctly highlights the role of canon law and of this legal discourse as legitimating Christian imperialism, the pope's legal sanction was no longer a necessary pre-requisite for Christian expansionist policies. Indeed, some of the most important laws promulgated by the Pope referred to already unfolding events. This was the case with the bull *Inter Caetera* (1493), issued by Pope Alexander VI soon (roughly six months) after Columbus arrival at the New World, at the request of the monarchs of Spain Ferdinand and Isabella (Donelan, 1984: 79). The bull had essentially two purposes. One was to provide guidance to the imperial rivalry between Portugal and Castile, which dated back many years to the expansion in the African coast of both powers, and could be seriously aggravated by the maritime expansion westwards. Thus, *Inter Caetera* conceded the Spanish the exclusive rights to acquire territory

discovered and to be discovered, towards the west and south, by drawing and establishing a line from the Arctic pole, namely the north, to the Antarctic pole, namely the south, no matter whether the said mainlands and islands are found and to be found in the direction of India or towards any other quarter, the said line to be distant one hundred leagues towards the west and south from any of the islands commonly known as the Azores and Cape Verde.

This shows a clear concern to avoid an armed conflict between Spain and Portugal over their overseas possessions, and reveals the universal ambitions of both church and European imperial monarchs. It also threatened any violator(s) of this bull that they would be incurring 'the wrath of Almighty God and of the blessed apostles Peter and Paul.'

The other purpose of the bull was to provide the Spanish with a legal, divine mandate to Christianise the pagan inhabitants of the territories discovered and to be discovered:

Moreover, as your aforesaid envoys are of opinion, these very peoples living in the said islands and countries believe in one God, the Creator in heaven, and seem sufficiently disposed to embrace the Catholic faith and be trained in good morals. And it is hoped that, were they instructed, the name of the Saviour, our Lord Jesus Christ, would easily be introduced into the said countries and islands.

These words already reflect a reaction to the accounts of Columbus's encounters with the inhabitants of America, whom he called Indians, because he initially thought to have reached India (Donelan, 1984: 79). In Pope Alexander VI's perspective, 'the most outstanding is that the Catholic Faith and Christian Religion especially in our times is being exalted and spread and extended everywhere and the salvation of souls procured and barbarian nations subdued and brought under that faith' (Pagden, 1982: 37). Another relevant attempt to regulate this relationship in the newly discovered lands and seas was the Treaty of Tordesillas, signed by Kingdom of Portugal and the Kingdom of Castile and Aragon (1494). This treaty included some changes to the criteria defined in the bull *Inter Caetera* (Grew, 2000: 257-258), and it is a good example of how the Christian expansion was no longer dependent on the pope's sanction.

The Indians were described by Columbus almost as animals, 'these are indeed very wild people' he wrote in his diary. For Columbus, as well as for Hernán Cortés and the Spanish *conquistadores*, eating human flesh, performing human sacrifices, not wearing clothes, and the practices of incest and sodomy, were symptoms of barbarism. He also saw these barbarous Indians as very generous people, because they often offered gifts to the Spanish – a view that might have contributed to the rise of the later myth of the 'noble savage'. This partially sympathetic view of the Indians was probably what led Columbus to assume a position of assimilationist towards them. He took several Indians back to Spain with him so that, 'upon their return they might be the interpreters of the Christians and might adopt our customs and our faith' (Todorov, 1984: 35-45). In his view, the Indians were fit 'to be made to build cities, to be taught to wear clothes, and to adopt our customs' (Donelan, 1984: 77).

The motives behind Spanish expeditions are multi-fold. These include: the will to spread Christianity (Columbus himself was profoundly religious); curiosity about the unknown world; and the material aspect, which became evermore influential once the first accounts of the gold found in what is now Mexico arrived to Spain. To these we can also add the *conquistadores'* quest for a higher rank in society, for land where they could establish themselves as landowners, and for glory. It is likely that the Spanish kings would not have supported such a long and expensive enterprise if it was not for the potential material gains. Yet this does not refute the role of religion as a true motive driving the expeditions (Todorov, 1984: 8-14; Donelan 1984: 76).

The idea of assimilationism quickly gave place to a policy of conquest and enslavement. The Spanish started shipping Indians to Spain as slaves, and were able to overthrow even powerful kings as Montezuma (Aztecs) with a few hundred men, due to a deadly combination of superior military technology, the high incidence of diseases, and the instrumental exploitation of rivalries among the tribes (Todorov, 1984: 46-76). The Dominican Bartolomé de Las Casas attempted to calculate the magnitude of what he described as the 'wholesale slaughter of innocent people' (Cavallar, 2002: 76). As Todorov explains, later attempts of historians to

determine the extent of this tragedy have 'managed to estimate with great plausibility the population of the American continent on the eve of the conquest, in order to compare that population with what the Spanish calculations report fifty or a hundred years later.' Some of these figures are, in fact, compatible with the numbers Las Casas described. According to some estimates, if in the year 1500 the population of the Americas was 80 million (and the world population 400 million), by the mid sixteenth century only 10 million remained. What happened in the Americas does not mean necessarily that the Spanish empire was eviler than other European empires. Instead, it was a combination of circumstances that were only verified in the Spanish occupation of the Americas that determined the events. Moreover, the majority of deaths were caused by diseases. Yet the brutal treatment of the inhabitants of the Americas by Spanish, including enslavement and torture of various forms, not to mention the complete destruction of their traditional way of life, surely contributed to the deadliness of the diseases carried by the Europeans to the Americas (Todorov, 1984: 132-138).

The conquest of the Indies posed a different question to the Spanish monarchs when compared to the crusades. The latter enterprise was essentially seen in Latin Christendom as an act of defence or reconquest, as was the case with the crusades aimed at the recovery of the Holy Land. Because war was a common state of affairs between Christians and Muslims, it was easy to justify the next war on the basis of defence of Christianity. While the crusades belonged to the realm of just war, in the case of the Indians of the Americas the argument of just war was mostly absent from the Spanish legitimating discourse of conquest. The spread of Christian faith was the chief argument that Spanish monarchs used in the beginning of the colonisation of the Americas. These developments revived a moral and legal debate about the rights and status of non-Christian peoples (Williams, 1990: 59).

The heated debate that ensued was allowed, and occasionally encouraged by the Spanish Crown (Donelan, 1984: 78-83), whom together with some ecclesiastical circles had an old moral unease and anxiety regarding the legitimacy of their military enterprises (Pagden, 1992: 24). On

the Christmas of 1511, the Dominican Antonio de Montesinos delivered a sermon and addressed the Spanish colonisers by asking

with what right and with what justice do you keep these poor Indians in such cruel and horrible servitude? By what authority have you made such detestable wars against these people who lived peacefully and gently on their own lands? Are these not men? Do they not have rational souls? Are you not obliged to love them as yourselves? (in Pagden, 1992: 10-11).

These words became almost a motto for those “fighting” for the rights of the peoples of the Americas. Soon after Montesinos’ sermon, King Ferdinand asked the Dominican Matiaz de Paz and the civil jurist Juan Lopez de Palacios Rubios for advice on the question of the Indians. Their studies concluded that although the Indians had full rights of personal liberty and ownership, the pope’s sanction granted the Spanish king the right to rule over them (Donelan, 1984: 83).

The purpose of Las Casas’s endeavour, by travelling to the Americas to understand what was happening and what had happen, and writing extensively about it, was not to challenge the Spanish king’s right to rule in the Indies, as some of his fellow-Dominicans did. Probably to prove it, Las Casas also wrote the *Comprobatory Treatise in the Imperial Sovereignty and Universal Jurisdiction which the Kings of Castile Have over these Indies*, printed in the same year (1552) as *A Short Account of the Destruction of the Indies*. As the very title indicates, despite his determination to show that the Crown had gravely mishandled the administration of the colonies, and that the behaviour of the colonists had ‘given reason for the name of Christ to be loathed and abominated by countless people,’ Las Casas was careful to distinguish between both issues. For him, there was no doubt that the kings of Spain were the legitimate rulers of the Americas because Pope Alexander VI had given them sovereignty over the lands in the Atlantic, unoccupied by other Christian princes. The main claim advanced by Las Casas was that this divine mandate did not confer the Spanish monarchs with the property rights over the peoples of the Americas and their lands, which were theirs by natural right, nor did it mean that the native rulers had no political authority. He noted that Pope Alexander VI had entitled the Spanish Crown to ‘induce

the peoples who live in such islands and lands to receive the Catholic religion, save that you never inflict upon them hardships and dangers.’ Because the Indians were subjects of the Castilian Crown, and not things or animals, to treat them as such would be a violation of God’s laws (Pagden, 1992: 15-16). As Muldoon (1979: viii) explains, Las Casas’s thoughts on the matter were influenced by the rediscovery of arguments from medieval canon law about the rights of non-Europeans.

A Short Account, written in 1542, addressed the king directly to call the monarch’s attention to the treatment of the Indians, and at the same time suggest legal and institutional reforms of the Spanish administration of the colonies in the Americas. Las Casas particularly despised an institution known as the *Encomienda*, which gave the colonisers lordship over the Indians and was a source of an angry controversy between the Spanish colonisers and the Christian missionaries. According to the *Encomienda*, the Indians, in exchange for their labour, would receive the protection of the Spanish, instruction in the Christian faith, and a symbolic wage. For Las Casas, this system that in his words ‘daily consumes these people’, represented a denial of the Indians’ right to property and simply meant the Indians were slaves. Through the *Requerimiento*, the Spanish colonisers constructed the case that Indians could be enslaved if they waged an unjust war to resist the colonisers (Pagden, 1992: 17-18, 23; Donelan, 1984: 82). The absurdity of the *Requerimiento* was such that, before launching an attack against the Indians, a Spanish priest would read in *Castellano* a declaration of Christian beliefs to the Indians, so as to explain them the Spanish actions (Muldoon, 1979: 140).

The criticism of the Spanish colonial enterprise by Las Casas gave rise to the *Leyenda Negra* (Black Legend), which was used as an instrument of Anglo-Dutch, i.e. Protestant propaganda to depict the atrocities of the Spanish in the Americas, and against any other Spanish imperial adventure. It is this appropriation of Las Casas work by rival European imperialisms at the time when Spain was already under pressure in the colonies, that probably explains why *The History of the Indies*, also authored by Las Casas, was only published in 1875. The purpose of this work was to demonstrate that no people on earth, regardless of their ‘barbarous’ condition, could be

denied membership to the Christian universal community. He also published *An Apologetic History of the Indies*, a work of comparative ethnography where he argued that the Indians were actually more civilised than many Europeans (Pagden, 1992: 8-9, 18).²⁵

To compensate for the deteriorating native labour force, slaves were transported from Africa to the Americas, thus contributing to the formation of increasingly miscellaneous colonial communities. By the mid-sixteenth century the population of New Spain, a colony established after the conquest of the Aztec Empire, was composed by 150.000 white Spanish, 150.000 mestizos, 130.000 mulattos, and 80.000 African slaves, and an estimated 1 million Amerindians. This resulted, as Darwin (2008: 64) notes, in the development of colonies not in the image of Castile, but in a 'distinctive if still protean Spanish-American culture, a new Creole society', where colour and ethnic origin played a central part in defining the societal hierarchy.

3.4 A Moral Obligation to Protect

A crucial figure in these debates that involved the Spanish crown, church, and *conquistadores* regarding the colonisation of the Americas and related wars and atrocities committed against the Indians was Francisco de Vitoria. Vitoria was a Spanish Dominican who for twenty years (1526-1546) was professor of the most important chair of theology in Spain, in the University of Salamanca (Nys, 1917: 72). He studied humanities, philosophy and theology in Burgos and then Paris, before taking up the Chair of Theology at the University of Valladolid in 1522. Four years later, he was appointed Chair of Theology in Salamanca (Valenzuela, 2006: 17). Vitoria, together with Domingo de Soto (1494-1560), are considered the founders of the Salamanca School. The work of the School was then followed on by Bartolomé de Medina (1527-1581), the Dominican Domingo de Bañez (1528–1604), and the Jesuit Francisco Suárez (1548-1617) (Koskenniemi, 2011: 5-7). Vitoria's intellectual influences were many and varied, but chief among these were the legacy of Aquinas – Vitoria began teaching *Summary of Theology* – and the Italian humanists of the Renaissance (Valenzuela, 2006: 17). Attesting to Vitoria's prestige is the fact that, following a long

established tradition of the Spanish Crown to consult men of the church regarding Spain's military enterprises, King Charles V often submitted questions to Vitoria and consulted him about matters taking place in the Indies, e.g. the baptism of the Indians against the will of their parents (Nys, 1917: 72).

That Vitoria willingly created moral and legal arguments to support the Spanish conquest and colonisation of the Americas is a view shared by a number of scholars. According to Pagden (1982: 2-3), Vitoria helped to develop the idea that the Indians' 'poor and barbarous education', as well as their child-like mentality, prevented them, 'temporarily at least', from exercising government responsibly. In this perspective, this was done by shifting Aristotle's notion of natural slaves to that of a 'natural man' (the Indian) unable to do rational, and thus moral choices. It followed from this that it was the duty of the Christians 'to care for peoples who were still in a condition of childlike imbecility.' Another portrait of Vitoria as an apologist of imperial domination comes from Anghie (1996), who argues that Vitoria used the concept *jus gentium* to demonstrate that the Indians were in breach or violation of natural law. Anghie thus compares Vitoria's role with Juan Ginés de Sepúlveda's – a figure seen at the time as intellectually very orthodox, chauvinistic and dogmatic (Pagden, 1982: 109) – in coming up with the justifications for Spanish colonisation of the Americas, by defining a number of Indian cultural practices as violations of the precepts of natural law. In Anghie's interpretation of Vitoria, these violations required the Spanish to act as sovereigns in the Americas.

Regarding Vitoria's development of an inherently imperialist/colonialist law of nations conception, Williams (1990), Anghie (1996), and Koskenniemi (2011) argue his legacy was a lasting one. Williams (1990: 99) makes the case that Vitoria's elaboration of a *jus gentium* was a *deliberate* attempt to provide 'Western legal discourse with its first secularly oriented, systematised elaboration of the superior rights of civilised Europeans to invade and conquer normatively divergent peoples.' According to Anghie (1996: 322-324, 334), Vitoria developed his 'sovereignty doctrine' so as to address the problem of the cultural difference, i.e. his 'characterisation of the Indians as different on the basis of their different

social practices, rituals and ways of life.’ Thus, international law was created by Vitoria out of this colonial encounter between the Spanish and the inhabitants of the Americas, based on his ethnocentrism and cultural preconceptions about the Indians. In Koskenniemi’s (2011: 1, 16) view, behind the development of a vocabulary of *dominium* by the ‘Salamancans’ was the goal of enabling ‘the universal ordering of international relations by recourse to private property, contract, and exchange’. In this logic, this vocabulary of private rights provided the basis for the ‘informal empires’ that Europeans established all over the globe. This quasi-demonisation of Vitoria (and by extension the Salamanca School) as the chief architect of what can be called a second wave of legal arguments for the Spanish colonisation of the Americas beyond the initial justification of the non-Christian and barbarian, almost animal status of the Indians, is quite problematic. Most of these views are highly de-contextualised, and often taken to the extreme for the sake of driving home one’s point. Furthermore, the issue is much more complex than what is often recognised.

The departure from the notion of a *respublica Christiana* was one of the Salamanca School’s essential tenets. It was inspired in Aquinas’ conception of natural right guiding and directing human law, as a basis for justice, rationality, and legitimacy in politics. What Vitoria and other members of the Salamanca School aimed to do was to apply this Thomistic notion about the unity of mankind, and of the existence of political and social rights pertaining to all humans regardless of their religious beliefs, to the relations between political communities. In principle, this position represented a powerful rejection of the old aspiration of bringing the world into unity through the imposition of Christianity. It was thus an indirect – indirect because initially it was a position of principle and not associated to the colonisation of the Americas – refutation of the main claim or justification of the Spanish conquistadores and the jurists that supported their enterprise. It was a dismissal of the pope’s universal authority over the indigenous populations of the Americas, based on the Indians’ non-Christian status and their refusal to accept Christian faith. Thus, Vitoria’s *jus gentium* highlighted the equality of all men, which inevitably implied the equality between political communities internationally. Not surprisingly, Vitoria was a vital influence in the later work

of Grotius. This influence is quite evident in the fact that he quotes Vitoria 44 times in *De Jure Belli a Pacis* (Valenzuela, 2006: 7-13, 42, 78-79).

The following question is thus pertinent: how could Vitoria have been an apologist of the colonisation of the Americas by intentionally developing legal and moral arguments that justified it, while at the same time being a key figure of an intellectual tradition that questioned the divine right of the Spanish kings to rule over the Indians of the Americas. There were a number of works in Spain that were obvious statements of support for the Spanish colonisation of the Americas and where there was no reference to rights of the barbarians of the New World. These include Matias de la Paz' *Dominio regum Hispaniae super indos* (1512); Juan Lopez Palacios Rubios' *De Insulis Oceanis* (1512); and Juan Ginés de Sepúlveda's – who was the Spanish crown's chaplain and official chronicler – *Democrates Primus* (1535), where religious proselytism is presented as the main justification for the conquest, and his *Democrates Secundus sive de justis causis belli apud Indos* (1547) that attacked Vitoria's position on the matter (Valenzuela, 2006: 89-90). As Pagden (1982: 109) puts it, *Democrates Secundus* was 'the most virulent and uncompromising argument for the inferiority of the American Indian ever written.' Even the Scottish philosopher and theologian John Mair justified the Spanish conquest of the Americas with the overthrow of pagan rulers and their barbarian subjects who rejected Christian faith. In the context of these statements supporting the Spanish Crown's enterprise in the Indies, Vitoria's dissertations on the topic, namely *De Indis Noviter Inventis* and *De Jure Belli Hispanorum in Barbarous* (both of 1532), read much more as critical intellectual enquiries to the matter rather than a defence of the *conquistadores'* actions (Valenzuela, 2006: 89-90).²⁶ In fact, de Sepúlveda's *Democrates Secundus* was condemned by the universities of Alcala and Salamanca, essentially due to the influence of Vitoria. As a theologian involved in these debates wrote to de Sepúlveda at the time, 'as the celebrated doctor Fray Francisco de Vitoria, who is worthy of every respect, has written at length on this matter and in opposition to your views, we could do little else than reject your opinion, there being arguments against it that were not to be despised' (Pagden, 1982: 110-111).

It is essential to understand that Vitoria developed his ideas in relation to an already existing reality. By the time he made his ideas public the conquest of the Americas was an established fact, and the colonisation of many territories was already under way. As Ortega (1996: 99-100) puts it, Vitoria 'was a theologian faced with a new reality: his country had to govern extensive territories inhabited by different peoples hitherto unknown. Particularly from the late 1520s, with the growth of the Spanish presence in the New World, the proliferation of reports of abuses by the Spanish conquerors and colonisers, and the increasing number of Indians that were vassals of the Castilian crown, the issue of the rights of non-European peoples became a topic of increasing public interest (Pagden: 1982: 57-59).

In Vitoria's view, the atrocities committed by the Spanish in the Americas demanded a moral reaction. His unease with the Spanish Crown's enterprise in the Americas is evident:

If the Peruvian natives were monkeys instead of human beings, I would recognise that they could not be victims of injustice. However, being our fellow-men and subjects of the Emperor, I cannot see how to excuse the conquistadores from the worst kind of cruelty and tyranny... Even if I desired the Archbishopric of Toledo, which is vacant now, very badly, suppose they offered it to me under the condition that I proclaimed the innocence of those Peruvian adventurers, I could never bring myself to do such a thing. I would rather lose my tongue and my hand than to say or write such an inhuman and anti-Christian statement. They can keep the seat of the Archbishop for themselves; all I want is to be left in peace. They will surely find somebody ready to go along with their plans; even among our Dominicans, they would find somebody ready to excuse them, to praise their deeds, their massacres, their pillages (in Valenzuela, 2006: 89).

This was part of a letter Vitoria wrote to the Provincial of the Dominicans in Andalusia, after the conquest of Peru and Atahualpa's execution. In another passage of it, he further expressed his disquiet with the events of the Indies: 'no business shocks me or embarrasses me more than the corrupt profits and affairs of the Indies. Their very mention freezes the blood in my veins' (Muldoon, 2006: 139).

The divine right of the Spanish Crown to rule over the inhabitants of the Americas based on the non-Christian status of the Indians was not the

only argument rejected by Vitoria. He also discarded a number of other arguments that had been developed by the Spanish to justify their deeds in the Americas (Muldoon, 2006: 134). Among these was the claim defended by others that the barbarian Indians were not rational beings. Inspired by a compassion based on his Christian beliefs, Vitoria went on to claim the Indians were rational beings, and thus were rightly entitled to own property and to be treated as subjects of the Crown, and not as slaves as it had happened so far (Ortega, 1996: 99-101). According to Vitoria, the fact that the Indians had princes, magistrates, and laws proved that they had *dominium* and were able to live rationally in society. Thus, because they possessed reason and had the capacity to understand principles of justice, they ought to be treated as equals (Valenzuela, 2006: 83-85, 93). He questioned what he saw as the instrumental use of Aristotle's idea of natural slaves to justify the subjugation of the Indians. He challenged the idea that the Indians were slaves by nature, could not be their own masters, or own property, by noting that before Spanish arrival to the Americas, the Indians did rule themselves, own property, and had their own laws, cities and commerce. Even if the Indians were natural slaves, or intellectually deficient, or children, this did not mean that they did not have rights, namely the right to of a rule that defended their own good. It surely did not justify the brutalities they were subjected to, argued Vitoria (Brown et al, 2002: 188-189). Other justifications he rejected included the idea that the Indians submitted freely to the Spanish, and the belief that God gave the Indies to the Spanish (Donelan, 1984: 83-84). Vitoria also rejected the justification based on *inventio*, i.e. the right of discovery, in relation to which he argued that it was only valid in connection with uninhabited regions. 'According to the Law of Nations', as Vitoria put it, 'that which has no owner become the property of the seizer; but the possessions we are speaking of were under a master, and therefore they do not come under the head of discovery' (Nys, 1917, 86). He concluded that 'the barbarians in question cannot be barred from being true owners, alike in public and in private law, by reason of the sin of unbelief or any other mortal sin, nor does such sin entitle Christians to seize their goods and lands' (Muldon, 1979: 145).

An important discussion regarding Vitoria's teachings on natural rights revolves around the extent to which the Spanish scholastic developed a doctrine of subjective rights. For example, Pagden (1982: 94) argues, wrongly, that Vitoria believed that the Indians were not fully rational beings, and could thus be deprived of their right to property. It is clear that Vitoria did see the Indians as rational creatures. He argued that

according to the truth of the matter they are not irrational, but they have the use of reason in their own way. This is clear because they have a certain order in their affairs, ordered cities, separate marriages, magistrates, rulers, laws... Also they do not err in things that are evident to others, which is evidence of the use of reason. Again, God and nature do not fail for a greater part of a species in what is necessary. But the special quality in man is reason, and potency which is not actualized is in vain.

He believed that 'nature does nothing in vain'. The hypothetical existence of peoples who did not fulfil their potential as human beings would amount to a failure of God and nature (Tierney, 1997: 269-270). The interpretation that Vitoria did develop a doctrine of subjective rights stems from the possibility that his professed Thomism, including the definition of *jus* as 'the object of justice' or 'what is just', was corrupted by nominalist and voluntarist currents of thought. As Tierney (1997: 257-262) explains convincingly, such interpretation is highly misleading. Vitoria accepted Aquinas's objective definition of right. Only when discussing the issue of restitution in relation to the affairs of the Indies, namely of the Indians' deprivation of their rights to property by the Spanish, did he talk in terms of *jus* as a power or faculty that can be owned. Moreover, the language of *dominium* (referring to property) as a right or faculty one possesses can be traced back to natural law theories of the twelfth and thirteenth centuries. According to Aquinas, restitution was 'to reinstate a person in possession or dominion of his thing.'

In his lectures and writings, Vitoria did refer to the inhabitants of the Americas as barbarians (Bain, 2003a: 15-16). But it is not only simplistic but wrong to assume that this defined his views on the matter, namely that he thought the Indians were incapable of or unsuitable for self-government. For years, especially Vitoria and de Sepúlveda were involved in a heated controversy about the matter, with the latter constantly attacking Vitoria's unorthodox positions which included the rejection of the Spanish right of

dominium based on canon law and the divine right to Christianise. Thus, Vitoria's references to the inhabitants of the New World as barbarians is only natural given that it was how de Sepúlveda and all other Spanish involved in these moral and legal debates referred to them (Ortega, 1996: 99-101). Vitoria attempted to define first and foremost the moral rights and obligations that ought to inform the relationship between the Spaniards and the Indians. As Valenzuela (2006: 87-89) explains, Vitoria was 'outlining the licit means by which different peoples may justly govern their mutual relations on the basis of a universalist, i.e. natural law, conception of humanity.'

This said, the practices of cannibalism and human sacrifices horrified Vitoria at least as much as he was repulsed by the Spanish massacres of the Indians (Todorov, 1984: 149-150). In his lecture 'On Dietary Laws, or Self-Restraint', he reflected on the extent to which cannibalism, incest, sodomy, and human sacrifice, practices which were forbidden by natural law, could justify expropriating the Indians from their lands. It was his view that the Indians' condition of 'barbarism' and related customs was not a sufficient justification. What those customs such as human sacrifices justified, in Vitoria's view, was the exercise by the Spanish of the rights of guardianship/protection. The idea of trusteeship was developed by Vitoria in his lecture 'On the American Indians' (1539), where he asked 'by what right were the barbarians subjected to Spanish rule?' (Brown et al, 2002: 187-189). He also developed this idea in more general terms in a number of passages of his writings about politics and morality (Vitoria, 1991: 6, 20, 203-204, 336-337). In this context, Vitoria explored what the moral obligations of the Christian princes towards their Indian subjects ought to be, calling for a rule based on the interests of the community, to which the Indians also belonged to (Brown et al, 2002: 188-189). In Vitoria's words, everything had to be done 'for the benefit and good of the barbarians, and not merely for the profit of the Spaniards' (Bain, 2003a: 15). This point was the logical corollary of his argument that the Indians were rational beings, were entitled to property, and ought to be protected and treated as equal subjects of the Crown, not as slaves.

In trying to limit the brutalities that the Indians were constantly subjected to, Vitoria also attempted to define some limits and think through the circumstances when war against the Indians could be morally justified. In his view, the Spanish could wage war to defend other innocent Indians from the evils of sacrifice and cannibalism. However, war could only be justified to address that injustice, and once that was done the Spanish should stop there, and not seize the properties of the Indians. This logic of an intervention to address an injustice over other human beings very much echoes what would be called humanitarian intervention a few centuries later (Muldoon, 2006). The Spanish could also defend themselves against attacks from the Indians. In Vitoria's view, the Spanish had the right to travel, settle, trade, and make use of the natural resources in the Americas, as long as this did not clash with the rights of the Indians (Brown et al, 2002: 187-189, 231). Although he believed the pagan princes were obligated to accept the presence of Christian missionaries as 'the ambassadors of Christianity' (Nussbaum, 1961: 81), Vitoria repudiated the argument that the Spanish could wage war against the barbarians for their refusal to accept Christian faith (Nys, 1917: 86-87). As Muldoon (2006: 133-140) shows, Vitoria's concluding line of argument regarding Spanish military interventions in the affairs of the Indians was that, even with good intentions, it could lead to damaging consequences. Overall, he was unsure about these ideas about intervention he developed. At the end of his lecture on the Indians, as Nussbaum (1961: 83) explains, 'he took up the hypothesis that none of his reasons in favour of the war against the Indians or of the occupancy of their territory might be valid.' His scepticism regarding some of the arguments himself developed should not be surprising, given the scholastic method – *sic et non* – of putting forward pros and cons regarding an issue, so as to be able to envision all the potential scenarios (Muldoon, 2006: 140).

Vitoria's opinion that the Spanish had a right to travel, settle, trade, and make use of natural resources derived from his notion of a universal society of mankind, of the existence of natural rights pertaining to all humans. These rights were to be enjoyed by all communities so as to ensure equality and justice, and under the fundamental precept that local populations should never be harmed (Valenzuela, 2006: 83-85). What is more, Vitoria's theory

about the right of hospitality was only valid as long as the Spanish did not harm the Indians. If this happened, the latter were rightly entitled to expel the former (Cavallar, 2002: 107-114). This might strike one as a rather naïve or overtly idealistic take on the nature of international politics, but nothing indicates that it was his intention to provide the Spanish expansionist hunger with novel legitimating basis for their actions. Quite the contrary, his intention was essentially to call for moral restraint, respect, and tolerance. Moreover, there is no evidence in the literature about the topic that the Spanish colonisers appropriated the moral arguments developed by Vitoria to justify their actions in the Americas.

Regarding the influence and effects of Vitoria's idea of trusteeship and of a rule based on the interests of the community in which the Indians and their rights ought to be included, these were very limited at best. Las Casas and Vitoria's efforts did have its results in the form of legislation passed to protect the rights of the Indians and impose limits to the brutality of the *conquistadores*. Famous among these were the Laws of Burgos, which forbade the Spanish to treat the Indians as 'dogs', and addressed the working conditions of the Indians by among other things limiting the number of hours they were required to work. However, the problem of enforcing legislation in the remoteness of the Americas was insurmountable. The dictum *obedezco pero non cumpro* (I obey but do not comply) became the attitude of the *encomenderos* and other colonial administrators towards this legislation (Koskenniemi, 2011: 5). Moreover, the reason why Cortes (in Mexico) and Pizarro's (in Peru) expeditions were described as less destructive than Velazquez's (in Cuba), was probably because the motive of the former was already the establishment of a feudal society, which required the Indians to be the working class (Pagden, 1992: 23-26).

With the gradual integration of the remaining Indians as Christian subjects of the Spanish Crown, they were no longer outsiders but members of the European-centred Christian society, and thus their rights had to be considered (Plamenatz, 1960: 6; Brown et al, 2002: 186). Thus, with the definitive establishment of the Spanish and Portuguese colonies in the Americas, Vitoria's idea of trusteeship lost its momentum (Bain, 2003a: 15-16). Nevertheless, as Plamenatz (1960: 7) puts it, 'although the natives

ceased to be outcasts from Christian civilisation, they belonged to society and yet they profited little from it.' Despite having done very little for the inhabitants of the Americas, the principle of trusteeship and the arguments it generated would have a lasting legacy in foreign policy debates ((Brown et al, 2002: 188-189; Bain, 2003a).

The idea that the Salamancan scholastics' most lasting legacy was their contribution to the development of an international law with an inherent colonial nature (Williams, 1990; Anghie, 1996; Koskenniemi, 2011) is not only highly misleading, but ignores the fact that the moral precepts developed by the Salamanca School played an essential part in bringing the events of the Americas under moral and then legal scrutiny. Surely this scrutiny of the Spanish colonisation of the Americas did little for the Indians. In the words of a sixteenth century Spanish historian, 'great disputes took place among famous jurists, canonists, and theologians... yet no good came to the land or the Indians' (Tierney, 1997: 256). Nevertheless, imperialism and colonialism in the Americas were no longer an unchecked enterprise, subject to the brutality of a few men certain of being on the right side of faith.

Finally, the transition accorded to Vitoria's work on *jus gentium* from a natural law of mankind to a law between sovereign states (e.g. Valenzuela, 2006: 7, 160-161) should be faced with some caution (Anghie, 1996: 322). This caution should not be used to downplay his contribution to the subsequent development of the doctrine of state sovereignty (Donelan, 1984: 84-85), which surely was important. The Salamanca school's conception of *jus gentium*, not only with Vitoria but also with Suárez, is still far from distinguishing between natural law and positive customary law (Valenzuela, 2006: 83-85; Koskenniemi, 2011: 30). Vitoria viewed political communities as part of a universal natural community, and thus with obligations towards one another. For him, 'the conquest of the Americas was not a technical issue of jurisdiction, but a moral and spiritual problem for priests, not lawyers, to address' (Muldon, 1979: 144).

3.5 Concluding Remarks

Inherited from the Ancient Greeks and the Roman Empire, the concept of barbarian informed the *respublica Cristiana's* ethnocentric view of the world. Yet in the Middle Ages, the Christian-infidels/pagans division replaced, or at least was far more preponderant than the dichotomy civility/civilisation-barbarism. Impelled by fideism and by Christian faith as the ultimate and universal moral standard, the concepts of pagans and infidels dominated the crusaders' views of their Muslim enemies. Questions about the rights of non-Christians were raised by clergyman and intellectuals, namely just war theorists, based on natural law conceptions. That the rights of non-Christians were considered in principle is expressed by the justification of the crusades as wars of self-defence. Yet the Christian-infidel/pagan dichotomy often dictated that the latter did not enjoy of equal rights in the face of the pope's universal authority. In a Christian community that was regularly divided by feuds and wars but that worked as a whole when there was an external threat or opportunity, canon law played a central legitimising and mobilising role in the crusades. This central role of canon law should be read as an outcome of the prevailing morality of the time, namely of the preponderance of Christian religion and the universal authority of the pope as the representative of God on earth.

As with the crusades, Christian faith continued to be one of the motives as well as a legitimating element of the Portuguese and Spanish overseas expansion. Although this expansion was also supported by canon law, the sanction of papal authority was no longer a pre-condition for Christian expansion. The Spanish encounter with the native inhabitants of the Americas is illustrative of how the concept of barbarians re-surged in the legitimating vocabulary of the discoverers and *conquistadores*, which indicates the revival of the notion of superiority of the civilised Europeans. Together with the non-Christian status of the inhabitants of the New World, the concept of barbarians worked as a justification for actions of the Spanish, in a context where the argument of self-defence could hardly apply. Nevertheless, this encounter also revived a moral and legal debate about the status and rights of non-Christian peoples. In particular, the likes of Las Casas and Montesinos condemned determinedly the atrocities committed by the Spanish *conquistadores* and colonisers, and recalled that the

Indians/barbarians also had rights, although they did not question the King's right to rule in the Americas based on the right to Christianise.

Regarding Vitoria's *jus gentium* conception, although he rejected the idea of papal universal jurisdiction, his arguments do not represent a radical break with the past in terms of the emergence of a secular law of nations, but instead a revival of medieval thought based on theological notions and a natural law of nations, coupled with humanist precepts. This is not to dismiss his contribution to the future development of the doctrine of state sovereignty. Vitoria's intention was not to create a range of legal arguments to provide the Spanish colonisers with novel legitimating basis for their actions. Quite the contrary, he was responding on a moral basis to an already existing reality. Vitoria rejected a number of arguments put forward by the Spanish apologists of conquest and subjugation of the barbarians of the New World. He was essentially moved by what he considered an extremely morally unjust, un-Christian situation. This led him to call for the protection of the Indians against the brutalities of the *conquistadores* and colonisers, to defend a government based on trust between ruled and ruler, or to explore the possibility that, in certain conditions, intervention in Indian affairs could be morally justified only to address a circumstantial situation. The limited effects of his ideas when it comes to the protection of rights of the Indians does not counter the notion that he was indeed a defender of their rights, and very critical of the Spanish actions in the Americas. Thus, Vitoria's legacy in relation to European imperialism and colonialism is that of a call for restraint, of a moral check over the actions of ruthless imperialists and colonisers, and the acknowledgement of the rights of the non-European peoples, irrespective of their customs or religious beliefs.

Chapter 4 - From the Divine Right to Christianise to the Mission to Civilise

Long ago, Plutarch pointed out that the civilising of barbarians served as a cloak for greed, or in other words, that shameless lust for another's property was wont to take cover in the excuse of introducing civilisation into barbaric regions. Nowadays, even this pretext of bringing reluctant peoples to an acceptance of more refined customs – an explanation to which recourse was had in earlier times by the Greeks and by Alexander – is regarded in the judgment of all the theologians, and particularly in that of the Spaniards, as unjust and impious.

Hugo Grotius, *De Jure Praedae Commentarius* (1950: 222).

4.1 Introductory Remarks

The Dutch Jurist Hugo Grotius, who passed away three years before the Peace of Westphalia, is widely considered to be the father of the modern doctrine of the law of nations. The main purpose of this chapter is to address Keene's (2002) claim that there is a relation of causality between Grotius' law of nations conception, and the idea and category of defective polities. According to Keene, Grotius' *jus gentium* conception, developed in the first half of the seventeenth century, contributed decisively to the division of the world by Europeans into two distinct types of order in the eighteenth century, and particularly in the nineteenth century. In his perspective, the principle of state sovereignty as envisioned by Grotius became an exclusive tool of European imperialist states to deny non-European political communities their right to sovereignty and self-government, under the claim that only civilised states possessed such right. In this regard, Keene (2002: 42-43) contends that Grotius' project 'was not to determine what prerogatives peoples should hold, but rather to identify those which in fact they did hold.' As we will see, Keene is *partly* right to note that Grotius attempted to address and reflect upon an existing reality, although Keene fails to appreciate all the implications of this. This means that to comprehend Grotius' law of nations

conception, it is necessary to place Grotius in the context of his time (Kingsbury, 1996: 45). As we will discuss, this is something that Keene fails to do in his attempt to associate Grotius' thought with later stages of the European imperial and colonial expansion.

An argument similar to Keene's about Grotius' law of nations conception is the one advanced by Clapham (1999) regarding Westphalia. According to Clapham (1999: 522), the establishment of 'the European sovereignty regime' with the treaties of Westphalia 'created the template for the division of much of the rest of the world between European powers.' In his view, Westphalia 'provided the formula under which territories that did not "count" as states according to the criteria adopted by the European state system could be freely appropriated – subject only to their capacity to conquer the incumbent powers holders – by those which did count.'

The first section of this chapter makes a few observations about the rise of international society in Europe and the corresponding norm of state sovereignty. It discusses the notion that Westphalia constitutes a defining moment in that regard. This will allow us to consider the argument that the normative outcomes of Westphalia are intimately related with European imperialism and colonialism (Clapham, 1999), and discuss Grotius' law of nations conception against the international political background of Grotius' age. The second section illustrates the extra-European context that informed the conception of law of nations developed by Grotius. It traces the rise of Protestant overseas expansionism since the late sixteenth century, especially of the United Provinces, which not only preceded Grotius but also marked the period in which he lived. The purpose is to shed light on the motives and legitimating arguments of that enterprise. The third section reflects on Grotius' ideas and conception of law of nations, and its connections with Dutch and other European expansionism. The goal is to discuss the relation between Grotius' law of nations conception and the idea and category of defective polities.

4.2 On the Rise of International Society

It is plausible to talk about separate/autonomous political communities, whose mutual relations shape their behaviour, and characterised by a number of shared norms of conduct, such as the ancient Chinese system, the ancient Indian system, and what is often called the 'Greek city-states system' (Stern, 2000: 56-74). Nevertheless, the notion of an authority that is recognised as constitutionally independent and supreme over others in the same territorial jurisdiction (James, 1986: 266), one that emerged gradually out of Medieval era, is still a fundamentally distinct development, as Watson's (1992) comparative historical study shows. To talk about sovereign states before this era amounts to falling in the trap Waeber (2002: 15) alerts to, of projecting back an idea and concept and assume it has always existed, 'even where it is not expressed in the language', and one should add the practices 'of the time.' It was mainly in the sixteenth century that the language of 'state' and 'sovereignty' came to be present in the vocabulary of Europeans. As Jackson (2007: 7, 20) notes, in the past there were not notions of sovereignty between different political communities, but arrangements of suzerainty, whereby more powerful political communities allowed less powerful ones some degree of autonomy in exchange for the payment of a tribute, as was the case with the imperial dynasties of China, the Ottoman Empire, and the Mughal Empire.

Two developments in particular are essential to understand the *gradual* disintegration of the cosmopolitan Christian Republic and the rise of the idea of state sovereignty. One is the influence of the Italian states-system of the Renaissance spreading northwards. The power of the Italian ruler was called *stato*, initially referring to a situation/status quo, to then mean a government or political nation as used in the writings of Machiavelli about reason of state. Together with the constant diplomatic dialogue between Italian rulers, their eagerness to acquire and consolidate power generated an anti-hegemonical concern leading to the rise of a conscious balance of power mechanism. The great concentration of power in the hands of a few princes, the artistic and scientific advances that characterised the Italian cities, and their societies' human and not God-centred morality, all appealed to European kings, nobility and *bourgeoisie*. In the second half of the fifteenth

century, these ideas started to hold sway in Europe, especially in courts and universities (Watson, 1992: 153-164).

The balance of power and the establishment of diplomatic representations are two patterns of behaviour that illustrate the rise of the norm of state sovereignty.²⁷ The exact origins of the balance of power are disputed. Hjorth (2007: 598-599) identifies some ambiguity in ES regarding this matter, namely in the work of Butterfield (1966) and Wight (1973). According to Hjorth, this ambiguity derives from the existence, particularly in Wight, of numerous definitions of the balance of power. However, what Wight aimed to do was to show that although there were a number of definitions of balance of power in history, it is possible to identify an essential core to it that does not vary much across time, a point which Hjorth ends up agreeing with. The term 'balance of power' was first used by Bernardo Rucellai in *De Bello Italico Commentarius* (written between 1495 and 1509) (Wight, 1973: 86-88). It was transported to international politics by Lorenzo de Medici, the ruler of Florence, who decided that his city could be endangered in case one of the various powers in Italy obtained a status of hegemon (Butterfield, 1966: 136).

Regarding the question of when did the balance of power became a 'conscious and continuous policy' (Stern, 2000: 77-78), Wight (1973: 86) noted that 'the system of the balance of power provides a striking example of the priority of practice to theory in politics.' He argued that 'statesmen were operating it before they and their diplomats had formulated the rules, and still longer before thinkers had formulated the concepts for analysing and describing the rules.' According to Wight, the balance of power presupposes the existence of: (1) sovereign states 'that could effectively and continuously organise their human and territorial resources'; (2) a diplomatic system that provided statesmen with the necessary information for the operation of the system; and (3) a 'sufficient sense of common interest among them.' It was in fourteenth-century Italy that those three features can first be observed.

The establishment of resident ambassadors was in the sixteenth century organised as a profession across Europe, framed by a number legal procedures (Bull, 1977: 30), including the 'legally sacrosanct status of the diplomat and his embassy' (Stern, 2000: 77). In this regard, Alberico Gentili (1552-1608) played an important part in the systematisation of the rules that

ought to govern the functioning of embassies (Nussbaum, 1961: 94). The practice itself did not emerge in post-Medieval Europe. In Medieval Europe, the role of the diplomat was performed essentially by representatives/agents of the Church (Jackson, 2007: 35). However, there were substantial differences between the sixteenth century professionalisation of the practice all over Europe, which included French as the language of diplomacy, and the 'old diplomacy' of the Middle Ages that was, as Neumann (2003: 363) puts it, 'incidental, bilateral, secretive, and hierarchical.'

Related with the influence of the Italian Renaissance, the other fundamental development to comprehend the transformation 'from *regnum* to *stato* and from *ecclesium* to national churches' was the Protestant Reformation, first felt in Germany and then across north-western Europe. This was not only a struggle for religious freedom by Protestants against the Catholics' religious orthodoxy. As expressed by the political theology of Martin Luther, it was also a quest for political authority over religious one in an attempt to reject foreign authority and interference, namely the pope's. A foremost example is the English Statute of Appeals (1534), which followed King Henry VIII demand from parliament of an Act of Supremacy which he obtained. It gave the rulers of England authority over the Church of England and the same time immunity from 'foreign law' and 'foreign authorities'. Another example is the Peace of Augsburg (1555), where the principle *cujus regio, ejus religio* was subscribed to by both German Lutherans and Catholics, under the agreement that religion could no longer be used as a valid justification for military intervention. The king was gradually becoming the all-powerful figure, the head of the national church, a process that also took place, although less ostensibly, in Catholic states. The sixteenth century also witnessed the growth of national conscience, as land and the properties of the church started to be converted into state property, and the population into subjects of the king. It was also then that kings started to monopolise the power and resources to make war (Jackson, 2007: 2, 6, 38-51). This latter aspect, as Tilly's (1990) *tour de force* illustrates, was key in the formation of states in Europe, particularly since the sixteenth century, although such process was far from homogenous across Europe.

For decades and to most IR scholars, Westphalia was seen as the defining moment of the European system of sovereign states. According to this perspective, the treaties of Münster and Osnabrück of 1648 marked the definitive break from the Church's hierarchy and centrality in Europe's political life, and the crucial shift towards an international law of territorially separate states (De Carvalho et al, 2011: 739).²⁸ In this logic, Westphalia is also associated with the advent of modernity, namely the rise of the modern Europe and of the modern state (Keene, 2002: 15). There is also a view of Westphalia not as much as a defining moment of a new system, but as a 'convenient reference point' to be mentioned when talking about the modern states system (Stern, 2000: 74). An example is Sorensen (1999: 591), who notes that 'there was no momentous change from one day to the next in 1648', but argues that 'it is justified to look at 1648 as a crucial point in the transition from feudal to modern authority.' Building on the work of historians, IR scholarship has in recent years challenged the Westphalian moment as a myth (e.g. Krasner, 1995; 1999; Osiander, 2001).

A valuable overview of the literature that challenges Westphalia as the defining of the emergence of an international society of sovereign states is provided by De Carvalho et al (2011: 738-745). A closer analysis of the text of the two treaties reveals that, instead of constituting the birth of state sovereignty, 'Westphalia actually represents a retreat, even if only temporary, from an idea that rulers did have sovereignty over their territories.' In Westphalia there was no reference to the principle *cuius regio, eius religio* (De Carvalho et al, 2011: 738-745). In the Treaty of Munster (1648) there is reference to the free exercise of religion by the people for the sake 'of tranquillity of Empire.' This reference, as Grew (2000: 290) observes, is a concern to protect religious minorities. The treaty also stated that 'the most Christian King shall ... be obliged to preserve in all and every one of these Countries the Catholic Religion, as maintained under the Princes of Austria, and to abolish all Innovations crept in during the War.'

The permission of states to pursue an autonomous foreign policy and enter in alliances was not a new development, and was restricted in Westphalia to those political entities that belonged to the Holy Roman Empire. Moreover, the view that the Thirty Years War (1618-1648) was

fought between the enthusiasts of a hierarchical order (the Holy Roman Emperor and the Spanish Catholic King) and those sovereign states aiming to counter it (France, Sweden, Denmark, and the Netherlands), as the best way to define the nature of this conflict has been increasingly challenged. Instead, the declining position of the Habsburg Empire led those who aimed to take advantage of that fact, as was the case of the interventions of Denmark, Sweden and France, to confront those who feared for its collapse and thus came to its defence (De Carvalho et al, 2011: 738-745). As Osiander (2001: 252-262) shows, the Habsburgs were not a threat to the emerging states outside the empire. As he puts it, 'none of the actors fighting the Habsburgs went to war for defensive purposes.' It was a war of aggrandizement by the French, Swedish, and Danish.

Seeing Westphalia in the perspective of those who lived through the events reinforces the idea that, insofar as the goals of political and religious emancipation from the pope and the Holy Roman emperor's hierarchical authority are concerned, this moment represents more of a step back than a step forward. The treaties themselves did not confirm the independence of the two non-German signatories (French and Sweden). This is only natural given that their independence was never at stake. Instead, the main focus of both treaties was, as Osiander (2001: 266) explains, 'the internal affairs of the Holy Roman Empire.' Westphalia confirmed the existence of the empire composed by princes and cities that were entitled to vote on the imperial *Reichstag*, with the emperor as their hierarchical superior (Osiander, 2001: 260, 267-270). Both treaties saluted the Christian Republic in their preambles, and spoke of the congress as the 'senate of the Christian world' (Jackson, 2007: 50-51). Those who negotiated and provided comments to the Peace of Westphalia did not think of the formal introduction or consolidation of a norm of sovereign equality. As Stirk (2011: 3, 6) notes, 'they saw the peace as restorative not innovative. The concept of sovereignty in something like its modern form was available but not dominant and the notion of sovereign equality, so far as it was recognised at all, was explicitly rejected.' While by this time the references to the balance of power were widespread in Europe (Butterfield, 1966: 139), the balance of power was only implicitly present as an objective in Westphalia (Bull, 1977: 31).

Far from a moment of radical transformation, the treaties of Westphalia ought to be understood as one more episode within a larger complex process, with advances and setbacks, towards the norm of state sovereignty. This picture certainly appeals for a much more nuanced understanding of the emergence of state sovereignty as a gradual process, driven by political, moral, religious, economic, and military developments that incrementally eroded the centrality of the church and of the feudal order in Europe. While many scholars still stick with the 1648 moment, others trace it back to the Council of Constance (1414-1418), or even further back to the eighth or tenth centuries, while others argue that this happened essentially in the eighteenth century (De Carvalho et al, 2011: 738-745). It should be noted that those who trace the idea and principle of state sovereignty back to the eight, tenth, or fifteenth centuries talk essentially about the origins of the idea, and do not refer to the time when this idea became a widespread, established practice of states. As Jackson (2007: 40) puts it, a number of episodes in the Medieval Ages 'anticipated the emergence of state sovereignty.' These included the efforts of church councils to place limits to the unchecked power of the papacy and the settling of disputes, through bilateral agreements known as 'concordats', between national monarchies and the papacy. Some thinkers were early advocates of the doctrine of state sovereignty (e.g. Marsiglio of Padua, who lived in the late thirteen/early fourteenth century), who rivalled with cosmopolitan thinkers who called for the universalisation of monarchy to pacify the world (e.g. Dante Alighieri). Overall, these disputes reflected the *respublica Cristiana's* defining feature, i.e. its dualistic arrangement of authority, whereby popes and emperors, claiming to be the rightful representatives of God on earth, were constantly involved in feuds and quarrels (Jackson, 2007: 36-37, 40-41).

Contrary to what others have argued (e.g. Keene, 2002: 21-22), there is not exactly a unified position in the ES regarding the importance of Westphalia. For example, while the aim of Buzan and Little's (2002) historical study is to challenge the idea that the history of the present international system starts in Westphalia, Watson (1992: 186) sticks with the 1648 moment. Yet those ES authors that have focused in more depth on the nature of state sovereignty present a rather nuanced view of the emergence

of European international society. This is the case not only with Jackson's (2007) history of the idea of sovereignty, but also in Bull's work (1977; 1984). 'In the fifteenth, sixteenth, and seventeenth centuries', as Bull described in *The Anarchical Society* (1977: 26), 'the universal political organisation of Western Christendom was still in process of disintegration.' Bull (1984b) referred to the sixteenth and seventeenth centuries as the 'formative period' of international society. Far from seeing Westphalia as the definitive break between politics and religion, he also highlighted the continuous importance of Christianity in providing a sense of unity.

Bull (1977: 26-28, 31) showed how the thinkers of this period were intellectually divided. Political philosophers such as Machiavelli, Bacon, and Hobbes, 'saw the emerging states as confronting one another in the social and moral vacuum left by the receding *respublica Christiana*'. The pro-Papacy and imperial writers struggled to give a new lease of life to the universal authority of the Church. In particular, they attempted to use the doctrine of a natural law of nations to perpetuate the idea of an *imperium mundi* under the Church's realm. Then a group of thinkers which included Grotius, as well as Vitoria, Suárez, Gentili, and Pufendorf, developed the notion that there was a connection between all nations through the doctrine of a natural *jus gentium*.²⁹ While Bodin's conceptualisation of sovereignty in *Six Livres de la Republique* (1576) would only become influential later on, the likes of Vitoria, Suárez, Gentili, Grotius, and Pufendorf developed the foundations of what would be called 'international law'. Yet, as Bull rightly notes, 'their purpose was not to ground the law of nations primarily in the practice of states. Instead, the philosophical (natural law) and theological (divine law) basis of their work occupied a key place in their law of nations' conception.' During this formative period there were still no defined criteria, amidst a variety of political units in Europe (e.g. *principes, regni, gentes, respublicae*), about who the members of international society were. Despite the existence of numerous treaties (e.g. the bodies of maritime and mercantile law), natural law prevailed 'in defining the source of the rules by which Christian princes and communities were bound' (Bull, 1977: 28-30).

From this follows that Westphalia was not a decisive moment when it comes to the emergence of the sovereign state. Moreover, the point made by

Clapham (1999) that the treaties of Westphalia generated a normative division of the world between European states and 'much of the rest of world' is also incorrect. As chapter 5 will show, in the international society of the seventeenth and eighteenth centuries, positivism – regardless of whom one considers to be the responsible for its emergence – was still not the dominant doctrine in international law.

4.3 Civility, Savagery, and the Protestant Expansion

At least until the third quarter of the sixteenth century, Spain was Europe's imperial hegemon. It possessed an unrivalled navy, and was by far Europe's richest and militarily most powerful state. Portugal could hardly challenge Spain's supremacy (there was even a union of the two crowns in 1580-1581); France, at least in the continent, had the potential to become a fearful rival, but was still recovering from the disruption of the so-called Wars of Religion; and England was at the time a medium power. A factor that contributed enormously to this supremacy was that among the Great Powers of the old continent, Spain was the only one largely spared by confessional splits. As Israel (1997: xiv-xvi, xxi-xxii) explains, this 'religious uniformity' provided the Spanish Kings with a 'strong sense of allegiance and purpose' for their overseas imperialism. However, Spain's hegemonic position would be increasingly challenged. The contest to the Catholic kings' imperial enterprises came chiefly from Dutch and English expansionism, which rejected outright any sort of Papal jurisdiction over their colonial objectives (Williams, 1990: 119).

The Dutch challenge to the Spanish overseas empire was part and parcel of the Spanish War of Succession. In 1581, the confederation of the Seven United Provinces of the Free Netherlands emancipated from Spanish rule. Initially, the Dutch overseas expansion assumed almost a form of Calvinist crusade against the hegemony of the Christian princes, accompanied by the internal elimination of Roman Catholicism. Yet the prominence of trade (even with Roman Catholics) and the idea of free trade, gradually took over the Dutch expansionist drive. Nevertheless, during most of the seventeenth century the Dutch waged wars against their commercial

rivals: Spain, Portugal, England, and France.³⁰ The confederative nature of the United Provinces meant that each of the provinces was very fond of its own rights and liberties, and there were great rivalries between the towns and provinces. Likewise, there was no centralised government taking decisions. The Calvinist oligarchies were the main supporters of the effort to keep a strong and united military and navy. Providing also some sense of unity to this complex political picture was the House of Orange (Amsterdam), mainly through its financial power (Plumb, 1965: xx-xxii).

In its expansion towards the East Indies and the Americas, the Dutch would look at the native inhabitants of the Americas, or those of the islands that today form Indonesia, with much of the same contempt than the Spanish and Portuguese did. They described them as barbarians and infields, as well as savages. A number of Dutch individuals, however, such as Steven van der Hegen and Laurens Reael in the Moluccas, or Dr. Jacob Bontius at Batavia, rejected the European views of Asians as 'blind heathen,' 'treacherous Moors', and 'feckless barbarians.' Admiral Piet Heyn (1577-1629), who served both in the East and West Indies, challenged their countrymen 'to see ourselves as others see us', and lamented the fact that most indigenous peoples 'feel very deeply the wrong that is done them, and this is why they become even wilder and more savage than they already are' (Boxer, 1965: 231).

It is important to reflect on the presence of the concept of savages in the vocabulary and moral views of the Dutch seamen and colonisers in the sixteenth century. The concept 'savage', from the latin word *silva* (referring to a wood), was used even before the sixteenth century to describe men who lived in German forests outside of what was considered organised society. The high incidence of the concept is illustrated by the various associations it generated, including the noble savage/*le bon sauvage*, the figure of the man free from the ills of organised society. The concepts of barbarian and savage were subject of analysis in the writings of Michel de Montaigne's (1533-1592), a prominent French Renaissance thinker, namely in his essays 'On Cannibals' and 'On the Custom of Wearing Clothes', published in French (1580) and English (1603). In the former essay, Montaigne reflected on the concepts of barbarians and savages upon his encounter, roughly eighteen

years earlier, with a few native inhabitants of the Americas that had been brought to France. He wrote: 'I do not believe... that there is anything barbarous or savage about them, except that we all call barbarous anything that is contrary to our own habits' (Salter, 2002: 19-22). This view of tolerance expressed by Montagne, who used the image of the savage as morally superior to the civilised man and to criticise French society (Muthu, 2003: 14-23), was not shared by most of his countrymen or other Europeans. Instead, fear, disdain, or scorn dominated the European views of those called savages. In the views or minds of most Europeans, the 'ignoble savage' violated, as Sheehan (1980: 37) illustrates, 'all the limitations imposed on ordinary men by social usage. Violence, treachery, brutality, and destruction were the foundations of savage existence.'

The concept of savages was used interchangeably with barbarians from the sixteenth until the eighteenth century in the context of European imperialism (Salter, 2002: 19-20). Both concepts necessarily imply a sense of ethnocentric superiority against which the barbarians/savages are judged, as well as a sense of fear regarding the threat they represented to those that see them as such. Yet the emergence of the concept of savages cannot be understood without acknowledging the emergence of the concept of *civilité *, which existed in France at least since the sixteenth century. It had a variety of social meanings, depending also on which social groups used it. For example, *civilité * came to mean what was considered proper behaviour for children, based on the work of Erasmus on how to bring up children according to certain moral standards. In other instances, it defined proper behaviour within nobility. In essence, as Richter (1995: 104) explains, *civilité * was mainly associated with social order, as part of 'an effort to suppress spontaneity and disorder, to provide a clear scheme of the existing political and social hierarchies, and to uproot the violence which was threatening the continued existence of the social order, and the space it provided for its members.' *Civilit * was always connoted with social order and proper behaviour, and by definition in contrast to savagery (Richter, 1995: 102-107). In this regard, Elias (1994) major historical-sociological work traces back the relation between social manners and etiquette and the *idea* of civility to the late Middle-Ages. As Salter (2002: 20) notes, for most Europeans, 'the

“savage” lived without the benefit of society and European “civility”. Civility worked as an assurance, a protection that defended human beings from the worst, natural inclinations of man (Sheehan, 1980: 63). Illustrative enough, Hobbes’s work is filled with references to ‘civil law’, ‘civil state’, ‘civil society’, and the ‘enforcement of civil order’ (Williams, 2005: 31-41). In Hobbes, the virtues of civility such as peace, the arts, or agriculture contrasted with the savagery of the state of nature (Tuck, 1999: 150).

As discussed in the previous chapter, the concept of barbarians already informed the Christian colonisation of the New World and their views of the Indians. The concept of barbarians, however, was often used interchangeably with infidels and pagans, denoting first and foremost that the political communities formed by these peoples were defective because they were not Christian. It is thus possible to see a gradual change in the context of the Protestant expansion, whereby the mission or the duty of Europeans was increasingly less about bringing, i.e. imposing, their religion on barbarian peoples, and instead about exporting European civilised values, manners, and customs to the lands of barbarian and savage peoples. The fact that Christian religion progressively ceased to be the measure of all things in international society is probably not alien to this growing emphasis on the mission to civilise in detriment of the right and duty to Christianise.

This gradual shift from the duty to Christianise to the mission to civilise can also be verified in the Catholic expansion. In the context of the establishment of the first trading company in Canada in 1627, the French King Louis XIII proclaimed the will ‘to continue the same desire of the deceased Henry the Great, his father of glorious memory’ to:

Discover in those lands and countries of New France, called Canada, some habitation capable of sustaining colonies, for the purpose of attempting, with divine assistance, to bring the peoples who inhabit them to the knowledge of the true God, to civilise them and to instruct them in the faith and Apostolic, Catholic and Roman Religion (in Pagden, 1995: 34).

To impose ‘the civil life’ and to Christianise were presented by King Louis XIII as analogous goals. Yet, a few decades later, Charles Rochefort in his *Histoire naturelle et morale des Iles Antilles de L’Amerique* (1665) wrote that

the single purpose of the French colonies was to civilise and guarantee 'the edification and instruction of the poor barbarians' (Pagden, 1995: 35).

As mentioned above, the Dutch expansionism would constitute a challenge to the Catholic overseas empires. The United Provinces' empire would extent from the Caribbean to the islands of Indonesia, and Amsterdam, replaced Antwerp as the commercial capital of Europe. A particular feature of the Dutch seaborne trade was the cooperative enterprise known as the *rederij*. These were capital ventures by which a group of people that often included wealthy merchants as much as the skippers/masters of the vessels would invest in buying, owning, building, or freighting a ship as well as its cargo. These ventures contributed decisively for the expansion of Dutch trade beyond the Mediterranean, the Levant, and the south Atlantic and towards the Indian Ocean and the spice-trade. The pioneering *rederij* project was formed in March 1594, when nine merchants founded the Company of Far Lands in Amsterdam, with the purpose of sending two fleets to explore the spice-trade in the islands that today form the archipelago of Indonesia. The *rederij* proliferated from here onwards, to the point that in 1601 sixty-five ships integrated into fourteen fleets left to the East Indies. The fact that they were organised on a regional/municipal basis led to intense competition between these companies (Boxer, 1965: 3-6, 21-24).

In the face of the scenario of competition between the various companies, in 1598 the States-General of the United Provinces suggested that the various companies should unite. In 20 March 1602 the companies did unite under one monopolistic corporation named the United Netherlands Chartered East India Company (Boxer, 1965: 24). This company became a powerful enterprise that would only cease to exist when it was absorbed by the Dutch state in 1799 (Ward, 2009: 9). The company was given a monopoly of Dutch trade and navigation east of the Cape of Good Hope and west of the straits of Magellan for the following twenty-one years. The charter of the company empowered the Heereen XVII (the company's governing body) with the right to conclude treaties of peace and alliance, to wage war for defensive purposes, and to build 'fortresses and strongholds.' According to the charter, the company could not wage war against the interests of other European powers in the Indian Ocean (Boxer, 1965: 24). However, as

apologists of free trade, the Dutch rejected the idea of a trade monopoly of any kind, as they rejected any sort of papal jurisdiction over the lands of seas of the East Indies. Thus, and given that the United Provinces were constantly at war with Portugal, the Dutch East India Company was entitled to conquer the Portuguese positions in the Indian Ocean while that status of war remained (Ward, 2009: 53). Nevertheless, this bellicose character, even if 'defensive' in principle, did not please a number of leading investors, who sold their shares. In 4 December 1608, they declared that 'they as merchants had themselves organized those companies solely for the purpose of honourably engaging in peaceful and friendly trade, and not to indulge in any hostilities or aggressive actions' (Boxer, 1965: 24).

Despite the concern of the States-General to regulate the actions of the company, its charter entitled the company to pass and enforce its own laws. In the 1620s the Heereen XVII changed the charter to meet the company's quick establishment of imperial outposts. As (Ward, 2009: 54-59) explains, the charter recognised three categories of territorial and commercial claims: (a) 'rule by conquest', whereby the company would exercise direct territorial sovereignty (e.g. Banda islands and Batavia); (b) 'authority and trade by monopoly contracts' (e.g. Ambon and Ternate); and (c) 'trade through treaties signed with Asia rulers'. This system of rule was formalised in 1650, and would be supervised by the governor-general and the Council of the Indies in Batavia. In this regard, Boxer (1965: 93-94) notes that the first two categories expanded considerably after 1650.

The Dutch East India Company, as Ward (2009: 6-18, 54-59) demonstrates, established an imperial, commercial, and legal network that operated separately from the laws of the United Provinces. This network that extended across the Indian Ocean and into the Pacific Ocean included forts, factories, and structures of governance that applied civil and criminal law in territories it possessed. The company controlled the population under its rule, and assigned clear categories in terms of legal and social status to the local inhabitants. For the sake of profit and to address labour shortages, the company established maritime links of forced migrants and slaves. To maintain order within its territories and defend them from other Europeans

and non-European enemies, it hired foreign mercenaries in huge numbers (Boxer, 1965: 90).³¹

At the same time that they offered all flexibility needed in the company's charter, the Herein XVII continued to emphasise the need for restraint, and peaceful trade rather than conquest. They not always opposed the use of force, but only in cases where that option could prove too expensive, or in situations when it was too difficult to secure the company's trading interests. In 1644, in the aftermath of the campaigns of Malacca and Ceylon and in the face of a number of casualties faced by the company, the Delft Chamber warned that 'a merchant would do better honourable to increase his talent and send rich cargoes from Asia to the Netherlands, instead of carrying out costly territorial conquests, which are more suitable for crowned heads and mighty monarchs than for merchants greedy of gain.' In a set of instructions of 1650, the Herein XVII condemned the company's use of force in 'the neutral places belonging to free nations, where we find the laws and do not have to bring them.' It reminded the company's workers that the inhabitants of Amboina had to be treated with fairness and consideration. It mentioned that the natives of Formosa, 'having always been a free people, must be kept loyal to the Company by being well treated, without those poor people being too heavily taxed.' The essential idea was that the company could cultivate friendly ties with the most powerful Asian rulers (e.g. the Shogun of Japan and the Shah of Persia), a situation that could then be explored by the company for its own advantage (Boxer, 1965: 95-97).

The tone of the colonists' reactions was usually the same. Antonio van Diemen, an important colonial governor, and his council highlighted the differences between this principle to avoid territorial conquests and the practical needs of empire. As they put it, 'we are taught by daily experience that the Company's trade in Asia cannot subsist without territorial conquests.' The founder of Batavia, Kan Pietersz Coen, had adopted a similar position thirty years earlier, when he addressed the Herein XVII: 'Your Honours should know by experience that trade in Asia must be driven and maintained under the protection and favour of Your Honours' own weapons, and that the weapons must be paid for by the profits from the trade; so that we cannot carry on trade without war nor war without trade.' In a report of 1655, the

future Governor-General of the company, warned that these 'Christian maxims' of restraint and respect carried by the 1650 instructions were being (mis)interpreted by the hostile Asian powers as a sign of weakness. The words of the Director-General at Batavia reacting to a written order from the Heeren XVII are clear in this regard: 'The Directors in the fatherland decide matters, as it seems best to them there; but we do here, what seems best and most advisable to us.' As Boxer (1965: 95-97) rightly notes, this was another version of the Spanish colonisers' 'I obey but do not comply' maxim.

The Dutch West India Company, modelled on its eastern counterpart, received its charter from the States-General on 3 June 1621. It was given a monopoly of all Dutch trade and navigation with America and West Africa. While in the case of eastern company its role regarding war was initially limited, that of the western company was outwardly offensive. It could wage war against all Portuguese and Spanish positions, was authorised to wage war and establish peace with indigenous political communities, and maintain naval and military forces as well as exercise judiciary and administrative functions in those regions. Although created with the aim of challenging the Spanish dominium in the Americas, particularly the control of Mexican and Peruvian silver, the Spanish proved to be a hard match. Thus, in the light of what the East India Company did, the West India Company ended up focusing the majority of its efforts against Portuguese possessions in Brazil and the west coast of Africa (Boxer, 1965: 24-28). This company was much more active regarding the slave trade than the Dutch East India Company. In fact, the Dutch imperial system in the Atlantic, like those of other European empires, was essentially fuelled by the slave trade and slave work (Ward, 2009: 22-23).

Contrary to the outwardly religious Portuguese and Spanish imperial ideology, religion soon ceased to be at the forefront of the Dutch's legal or legitimating arguments for their expansion. As Ward (2009: 35-36) notes, 'it is trade and profit rather than religion and evangelisation that ought to be seen as the main driving force of Dutch expansionism.' Yet Ward's assertion that 'the Company was practically indifferent to proselytising' seems misleading. A number of leading Protestant reformers (Luther, Calvin, and Zwingli) did not bother much with the possibility of spreading Protestantism outside

Europe, as their main concern were the European religious disputes. Thus, it is not surprising that in their initial stages both the Dutch West India and East India companies were not concerned with evangelisation. The original charters of the two companies did not make reference to any obligation to spread faith. However, both companies ended up assuming explicitly those obligations among 'benighted Papists', i.e. Catholics, and the 'blind Heathen', i.e. Muslims. As an example, during the two centuries of the East India Company's existence, their directors sent roughly 1,000 Calvinist *predikanten* (preachers) to the East Indies, as well as several thousand lay-readers and schoolmasters (Boxer, 1965: 113-114, 132-152).

The other great Protestant challenge to the Spanish overseas supremacy came from England.³² As was the case with the United Provinces, the early English expansion under Queen Elizabeth I (r.1558-1603) can be seen almost as a protestant crusade against Catholic Spain (Williams, 1990: 193). The passivity of the English state regarding overseas matters begun to be addressed when a few influential Protestant figures, including Sir Francis Walsingham, Secretary of State to Queen Elizabeth and head of intelligence, alerted to the major strategic and material advantages that the Spanish had gain with their overseas expansion (Canny, 1998: 3). In the document titled 'A Discourse Concerning Western Planting' (1584), Richard Hakluyt, one of the foremost propagandists for English expansion, attempted to convince Queen Elizabeth to support colonisation plans. He argued that 'no greater glory can be handed down than to conquer the barbarian, to recall the savage and the pagan to civility, to draw the ignorant within the orbit of reason' (Pagden, 1998: 35). This important document, which became a reference for the movement in support of expansion, constituted an outright rejection of religious justifications for imperialism and colonialism (Tuck, 1999: 110). As Williams (1990: 136) explains, for the English Protestants, it was Ireland that served as a training ground for the practice of colonising and civilising techniques among savage peoples. Nevertheless, the English poet Edmund Spenser, in *A View of the Present State of Ireland* (1596), still called for the destruction of the Gaelic order and the construction by English settlers of a colony based on civil life and Protestant faith (Ohlmeyer, 1998: 137).

As with the United Provinces, there was soon a shift from the spread of protestant faith to colonisation essentially as a commercial enterprise. This happened under the realm of the Scottish King James I, who signed a peace treaty with Spain in 1604. The James-town venture of the Virginia Company, England's first New World colony, was initially established (1607) for the sake of evangelisation, and to 'bring the infidels and savages living in these parts to humane civility and to a settled and quite government', as its Charter stated in 1609 (Pagden, 1995: 35). Yet the commercial character of the enterprise, driven by profit and economic efficiency, eventually prevailed over religious aims (Williams, 1990: 133-136). In the words of Robert Johnson, a promoter of the Virginia Company, 'all the States of Europe have been asleep so long that for a hundred years and more the... riches of the East and West should run... but into one coffer.' As Sheehan (1980: 88-182) illustrates, the image of the savage was central in the Virginia Company settlers' views of the native inhabitants of the New World. The savage status of the inhabitants of North America represented both an opportunity and a threat to the civility of the Englishmen. Although the English colonisers view themselves as men of commerce and agriculture, and not conquerors, their actions were questioned by some on moral grounds, even if that did very little for their treatment of the native savages. In *A Good Speed to Virginia* (1609), Robert Gray asked 'by what right or warrant we can enter into the land of these Savages, take away their rightful inheritance from them, and plant ourselves in their place, being unwronged or unprovoked by them' (Pagden, 1998: 34-37).

4.4 Empire, War, and Grotius Theory of Morality

Born in 1583 to a Dutch Calvinist family, Grotius developed precociously a number of intellectual interests such as Latin poetry, mathematics, law, and theology. This diversity of interests was reflected on the variety of jobs and projects he took on along his career, which included diplomacy; his appointment as Advocate-Fiscal or Attorney General of the provinces of Holland, Zeeland, and Friesland; or the composition of a religious tragedy titled *Christ's Passion*, certainly not alien to the fact that he was often

absorbed by political-theological problems, including the idea of reunion of the Christian churches. His most famous book is *De Jure Belli ac Pacis* (On the Law of War and Peace, 1625), translated at the time to French, German, Swedish and Spanish (Nussbaum, 1961: 102-105). Although he is usually described as a jurist, he had no formal legal training (Tuck, 1999: 78).

Grotius first became directly involved with the matter of the law of nations when he was asked by the Dutch East India Company to provide his legal opinion in relation to an incident regarding their capture, near Malacca, of a Portuguese ship, the *Santa Catarina*. Portugal was then under the domination of the Spanish, who were at the time at war with the Dutch. After its capture, the ship was carried back to the Netherlands and its very expensive cargo was sold. The stockholders of the company opposed the action under the argument that Christians ought not to wage war. Grotius' study on the matter ended up vindicating the action of the company. This legal opinion would later be published under the title *Mare Liberum* (The Free Seas, 1609) (Finch, 1950: xiii-xv). As noted by Brown et al (2002: 313), this study was more than a mere legal opinion. It was a broader reflection on the issues of self-preservation, self-defence, and just war by public and private entities.

The argument that Grotius' conception of a law of nations contributed decisively to the rise of an unequal, extra-European order is based on two assumptions. First, his theory on public authority and the divisibility of sovereign prerogatives envisioned the possibility of separating sovereignty across different institutions within the same political community. Internationally, in Keene's interpretation, this meant that a state could hold sovereign prerogatives that originally belonged to another state, and exercise the corresponding powers on its behalf. Keene (2002: 44) explains that Grotius asserted that 'in principle sovereignty is indivisible', but then went on to show that 'in both theory and practice it is often divided.' The second aspect of Grotius' theory respects his take on private law and the rights of individuals. According to Keene (2002: 3-4), in Grotius' conception 'under certain conditions individuals have a right in the law of nations to appropriate unoccupied lands; furthermore, if no established political authority acts to protect their rights, the individuals themselves may conduct a "private war" in

their defence and would be justified by the law of nations in so doing.’ These two ideas became, according to this logic, mirrored in the European imperial and colonial practices.

Keene (2002: 6) does not think Grotius intentionally developed this dual vision of order to serve the projects of European empires. As he notes, Grotius thought about the international legal order in universal but ‘broadly non-discriminatory terms.’ In Keene’s view, while ‘Grotius himself can hardly be assigned all the responsibility for the different ways in which international order developed within and beyond Europe after the seventeenth century,’ he nevertheless ‘provided an account of the law of nations that was used by Europeans to legitimise their behaviour towards non-European peoples.’ Therefore, Keene sees Grotius’ law of nations conception as the crucial framework that enabled Europeans to construct a view of a world separated between civilised and uncivilised nations. Crucially in Keene’s (2002: 79) account, this started to happen in the late seventeenth century, i.e. a post-Grotian development. In the logic of his argument, Europeans did not hold ethnocentric or non-discriminatory views of the non-Europeans they encountered until the late seventeenth century. Up to then, Keene argues that ‘Europeans confronted indigenous rulers on terms of parity, or even, on occasion, inferiority’, a point based exclusively Alexandrowicz’s (1967) analysis of the European presence in the East Indies.³³ Keene thus confers a relation of causality between the rise of a Grotian law of nations, and the Europeans discriminatory and actively aggressive views towards non-Europeans in eighteenth and nineteenth centuries.

As discussed above, however, the Protestant overseas expansion that originated before Grotius was already informed by the discriminatory concepts of barbarians and savages. Initially justified with the spread of Protestant religion to rival the Catholic expansion, the United Provinces and the English overseas imperialism soon became driven first and foremost by economic motives. Their views of the native inhabitants encountered as barbarians and savages justified their enslavement and the appropriation of their lands, and it also implied a sense of moral duty to bring European civility, customs, and manners to the lands of barbarian and savage peoples. In the face of this, Grotius’ natural law of nations was a reaction to an existing

reality that concerned him. His work was not a cause behind European's discriminatory and actively aggressive views towards non-Europeans. Moreover, the argument that Europeans legitimised their actions based on Grotius' conception seems misplaced.

There are a few conflicting positions in the literature about where to situate Grotius' *jus gentium* conception regarding naturalism and positivism, as well as doctrines of subjective rights. On the one hand, Grotius is associated with a 'natural conception of a law of nations, antithetical to the positivist tradition' (Cutler, 1991). For Grotius, the sources of the law of nations were natural, divine, and human. In this perspective, the latter source, which includes law made by the will of nations, 'only supported and did not override' the other two (Grew, 2000: 347-350). On the other, Grotius is credited for breaking with natural law theory due to his emphasis on *jus* as something one possesses (e.g. Tuck, 1979: 58-81; Haakonssen, 1985). This, the argument goes, amounts to a subjectivisation centred on the person, related with a person's moral quality. In the middle of the spectrum are those that see Grotius' *jus gentium* conception as representing the transition from natural law to positivist law (e.g. Kingsbury and Roberts, 1990: 30-32; Grew, 2000: 347-350). If legal positivists are defined as those who 'limit membership in international society to sovereign states and delimit the boundaries of society according to the areas of state agreement' (Cutler, 1991: 58-59), then Grotius was surely not a positivist. In this regard, Cavallar (2002: 277, 306-308) argues plausibly that there was a gradual transformation of the tradition of natural law from the inside, whereby natural lawyers modified constantly their doctrines in response to an increasing scepticism.

As we will discuss, Cutler seems to be correct when she argues that, for Grotius, the sources of the law of nations were natural, divine, and human. Moreover, as Milbank (2012: 1, 14) clarifies, the notion of subjective rights 'as possessive individualism' is very different from the kind of arguments Grotius – and Vitoria for that matter – developed in relation to 'active and claim rights nonetheless objectively grounded.' Some point the Swiss author Emmerich de Vattel as the responsible for the definitive shift, while others challenge this claim by arguing that Vattel was still a

representative of the 'via media' (Kingsbury and Roberts, 1990: 30-32). According to Grew (2000: 347-350), it is Hobbes – who was contemporary to Grotius – who should be considered as the father of not only individualism but of modern legal positivism. The influence of William of Ockham, a figure of the University of Oxford's nominalist school, was central in Hobbes's attack on natural law. He asserted that a legal order between states, based on natural foundations, was impossible due to the absence of a mechanism that ensured the enforcement of rules. Hobbes thus concluded that the 'law of nations' was 'identical with the law of nature.' It is due to this reasoning that Hobbes is considered the founding figure of a group called the 'deniers of international law', which also includes Spinoza. In this regard, the fact that the precursors of liberalism (Gray, 1995: 12) led the skeptics' attack on the old tradition of natural law gives credit to the argument about the close connections between the development of what is called modern international law and liberal thought (Keene, 2009: 133).

In developing his *jus gentium* conception, Grotius was influenced by Alberico Gentili (1552-1608), particularly when it comes to organisation and documentation. There is a tendency to see Gentili as belonging to the humanist tradition as opposed to the scholastic one (Kingsbury and Straumann, 2010: 3, 18). The logic behind this division is that while the scholastics tended to emphasise the existence of a sphere of moral and legal constraints 'beyond the established polities', the humanist tradition breaks with this view by combining the classical Roman tradition of reason of state with a renewed account of natural rights. The humanists, according to this dual picture, 'reveal a marked tendency for imperialist aggrandisement' (Straumann, 2010: 122). For one, Gentili's nostalgic views of Roman imperialism were based on his belief that there was a very significant legal constraint over imperial power (Kingsbury and Straumann, 2010: 7-8; Richards, 2010: 27). More important, there are a number of problems with the division humanists-scholastics. There is never a clear border between the two traditions. Vitoria was himself a scholastic/theologian with an unquestionable humanist influence in his education and work. Like Vitoria, Gentili challenged the imperial claims of the Spanish and Portuguese kings, based on papal bulls and on a divine right to rule. In his view, natural law and

not divine law ought to regulate the contested high seas and the newly discovered territories. Gentili also rejected the Spanish right to wage war on the Indians under the claim of self-defense, by arguing that the Spanish objective was not commerce but *dominium* of lands that already had rightful owners (Straumann, 2010: 111-123). Moreover, as Malcolm (2012: 127, 145) shows, there is not in Gentili an absolute separation between secular and theological assumptions, despite his famous phrase ‘theologians, mind your own business’. Insofar as he was influenced by the humanist tradition, Gentili is best described as a ‘representative of moderate humanism’ (Lesaffer, 2010: 218).

Notwithstanding the influence of Gentili, the scholastics of Salamanca were Grotius’ main inspiration in terms of substance and method of argumentation. As noted in the previous chapter, Grotius quotes Vitoria 44 times in *De Juri Belli ac Pacis*. Moreover, he praised the legacy of moral theology in his writings (Nussbaum, 1961: 102-106, 108). Like the scholastics, as Murphy (1982: 482) explains, Grotius ‘contemplated the universe as subject to the reign of jurisprudence.’ Nussbaum (1961: 108-109) argues that Grotius broke from the scholastics’ view of natural law as divine, by separating natural law from theology. The need to live in a way that is ‘peaceful and organised according to measure of his intelligence with those of his own kind’ was, according to Grotius, an essential characteristic of man. Nevertheless, the point about Grotius’ separation of natural law from theology is more complex than it appears. Grotius was profoundly religious. In his doctrine, the moral principles of natural law would be available to those who men who had the capacity to distinguish what is good and altruist. These conceptions of what is good and what is altruist that Grotius talks about have, in his conception, an implicit Christian foundation. As Murphy (1982: 480) puts it, ‘Grotius thought to give the principles of natural law a human, as well as divine, authority.’ This inspiration on natural rights and natural law, associated with human nature but implemented by God, should not be surprising given the influence of the scholastics in his work. Grotius was not the creator of a new theory of natural rights and natural law. Instead, he adapted the scholastics’ theory to the world and events he witnessed (Tierney, 1997: 319, 342).

One of the flaws in Keene's argument is that he downplays considerably the central influence of Vitoria in Grotius' theory of law of nations. Although he recognises that Vitoria rejected the argument that being non-Christian was enough to justify the appropriation of property from the Indians, and believed that they had reason and thus were legitimate right-holders, he fails to consider the implications of this position in Grotius' thought. Consequently, Keene does not acknowledge what it seems as clear as significant: the fact that Grotius' take on the relations between Europeans and non-Europeans is adopted from Vitoria. In particular, this is the case with the 'minimalist' conception of natural law and natural rights that applied indiscriminately and impartially to the moral community of mankind (Cavallar, 2002: 127, 150-151).³⁴

Moreover, Keene attributes the idea of a right to occupy uninhabited lands to Grotius, one that was appropriated by European imperial and colonialist projects. Yet, this was a legitimating argument already used by the Spanish, one that Vitoria rejected precisely because those lands belonged to the Indians. Thus, instead of developing a notion with which European Empires could appropriate non-European territories, Grotius simply asserted Vitoria's point that all non-Europeans were humans that possessed reason and were thus rightfully entitled to property. In the *De Jure Belli ac Pacis*, he claimed that the infidels or heathens were entitled to own property based on their own systems of law (Kingsbury and Roberts, 1990: 43-47). Grotius believed Vitoria was right and thus concluded that the natives of the East Indies 'enjoyed public and private ownership', as was the case with the natives of the Americas. The denial of their natural rights and their right to property amounted to 'an act of thievery and rapine no less that it would be if perpetrated against Christians' (Cavallar, 2002: 150-151). According to Cavallar, in *De Jure Praedae* Grotius even went further than the scholastics of Salamanca on their rejection of any special rights of Europeans on the basis on the barbarians/savages' non-Christian status, the argument of papal donation, and the mission to civilise. As illustrated in the beginning of this chapter, in *De Jure Praedae*, Grotius considered the civilising mission immoral and unjust. In the *De Jure Praedae* (1950: 216) he also argued that 'infidels cannot be divested of public or private rights of ownership merely

because they are infidels, whether on the ground of discovery, or in virtue of a papal grant, or on grounds of war.’ Likewise, in *De Jure Belli ac Pacis*, he dismissed the civilising mission as a pretext, based on the false claim that ‘it is for their own good’, and argued that the true motive was greed (Cavallar, 2002: 151). Thus, when it comes to European relations with non-Europeans, Grotius can hardly be classified as an apologist of European imperialist practices, quite the contrary.

As opposed to Vitoria, however, Grotius was more concerned with war and the overseas issues between the United Provinces and Spain and Portugal, than with the relations between Europeans-non-Europeans/Christians-non-Christians (Kingsbury and Roberts, 1990, 43). To prevent war between Europeans and to bring order to the chaos and conflict of early-seventeenth century Europe can be seen as the main concerns of Grotius’ work (Murphy, 1982: 480). As he stated in *De Juri Belli ac Pacis*:

I have had many and weighty reasons for undertaking to write upon this subject. Throughout the Christian world I observed a lack of restraint in relation to war, such as even barbarian races should be ashamed of; I observed that men rash to arms for slight causes or no cause at all, and that when arms have once been taken up there is no longer any respect for law, divine or human; it is as if, in accordance with a general decree, frenzy had openly been let loose for the committing of all crimes (in Cutler, 1991: 44).

Unlike the pacifists of his time such as Erasmus, who believed that war could under no circumstances be in accordance with Christian precepts (Murphy, 1982: 480), Grotius believed that war was inevitable. However, he distinguished between just and unjust wars, in relation to which only wars that were in accordance with rights of defence, recovery of property, enforcement of promises, and the infliction of punishment fell into the category of the former. Together with his notion of a *jus ad bellum*, he also reflected about *just in bellum*, developing principles to govern the conduct of war (Claire, 1991: 44-45). Book two of *De Juri Belli ac Pacis* is entirely devoted to the matter of just war. Here, he expressed concerns that the right of humanitarian intervention was susceptible of being abused by wrongdoers (Cavallar, 2002: 142). With *De Juri Belli ac Pacis*, Grotius aim was to touch

the minds and hearts of men, especially rulers. He called for the personal responsibility of those holding the sovereign power. He also rejected the idea of 'reason of state' as a motivation for war, and made a call for rulers to have in consideration not only the interests of their subjects but also those of humanity as a whole (Murphy, 1982: 482-483). Grotius desired peace not only between states but between individuals. In his view, the respect for and protection of others' rights, namely property rights, was a crucial condition for peace. On the contrary, disputes over rights were a primary cause of war (Tuck, 1979: 73-74).³⁵

Again following Vitoria, as well as Gentili, but going beyond Vitoria in the sense of developing a much more elaborate argument, Grotius developed a claim for the freedom of the seas. This happened in the context of claims of *dominium* of the oceans by Spain and Portugal, based on papal mandate and the right of discovery, which Grotius opposed (Grew, 2000: 257). His study titled *Mare Liberum* was initially aimed at the Portuguese claims of *dominium* over the Indian Ocean, but the implications of his argument and of the whole issue were much broader. Contrary to Grotius' take on the matter was the essay *Mare Clausum sive de dominio mares* (1635) by the Englishman John Selden, hugely influential in the English doctrine (Nussbaum, 1961: 111).³⁶ In this regard, it should again be noted that Grotius' position on the issue does not precede or give rise to political practice, but it is actually preceded by the latter. England took over the leading role in the struggle for the freedom of the seas in the kingdom of Queen Elizabeth I (r. 1558-1603), years before Grotius wrote his first legal opinion on the topic (Grew, 2000: 259).

If one uses Grotius' main work, *De Jure Belli ac Pacis*, published in 1625, to situate him chronologically in relation to the political context in the United Provinces and in international society more generally, it becomes evident that Grotius was trying to provide a moral guide for conduct based on his own observance of and concern with international events that both preceded and were contemporary to his work. This is a point that Keen recognises to then utterly ignore. The very turbulent times in which Grotius lived, not only the Protestant imperial and colonial expansion, but also the Thirty Years War, the violent process of Dutch independence from Spain, or

the overseas conflicts against Spain and Portugal (Kingsbury and Roberts, 1990: 1), motivated him to develop a theory of morality that could appeal not only to rulers but to all entities involved, public and private. This view holds to most if not all the issues he considered, including: the divisibility of sovereignty; private law; the rights and duties of individuals; the idea of free commerce and freedom of the seas; self-defense and just war; or the rights of the savages/barbarians/infidels/heathens. Grotius observation that the principle of sovereignty was often divided in practice (Keene, 2002: 44) can plausibly be read as a reference to the power and sovereign prerogatives of the private companies of the United Provinces. And the same holds for his thoughts on the rights and duties of private individuals and entities, in their relations with Europeans and non-Europeans. It was an issue he identified and his observation about divided sovereignty does not mean he backed such an arrangement. As Tuck (1999: 80-81) notes, the Dutch expansion characterised by an offensive war for the sake of trade was a rather novel situation, given that it was not conducted 'through conventional political structures', but through a series of companies that were not controlled by a state. In the first paragraph of the *De Jure Belli ac Pacis*, which explains the purpose of the book, he talks about 'the controversies among those who are not held together by a common bond of municipal law', and which 'may arise among those who have not yet united to form a nation, and those belong to different nations, both private persons and kings' (Bull, 1990: 83-84).

Overall, Grotius' work was not an attempt at systematisation of international practices, including that of states, but the development of 'a theory of morality applicable to any person, individual or collective, whose natural rights are threatened by the actions of others' (Brown et al, 2002: 135). He believed in a natural, even if somewhat limited, sociability of man (Tuck, 1999: 94-99, 102). Grotius' universal theory of natural law, one that is hardly an original one when considering the work of Vitoria and the Salamancan scholastics, did not separate European states from non-European peoples/political communities. His conception of international society naturally included an inner circle of Christian nations, but the law of nature and *jus gentium* encompassed the outer circle of non-Christian communities. He believed that these non-Christian communities and peoples

were rightfully entitled to self-government under systems of rules of their own choosing (Kingsbury and Roberts, 1990: 14, 48-49). In his words, 'just as, in fact, there are many ways of living, some being better than others, and out of so many ways each is free to choose the one he wants, so also a people can select the form of government it wishes' (Tierney, 1997: 338).

4.5 Concluding Remarks

The rise of the idea of state sovereignty is best understood as a gradual, non-homogenous development in Europe. This idea of separate sovereign states gained considerable ground at least since the sixteenth century, propelled by the influence of the Italian Renaissance and the Reformation in north-western Europe. The transition from the *Respublica Cristiana* to an international society was a revolution in Europe's political map, but one that cannot be identified with a precise moment such as 1648, which is only natural given the magnitude of such transformation. Westphalia was not a decisive moment in the emergence of the sovereign state, and it also had no influence in the European views of the rights of non-Europeans. International society in Grotius' period was still very much in process of formation.

The overseas expansion of the United Provinces as a Protestant challenge to the Catholic empires was since its geneses informed by the idea of defective polities, as expressed by the concepts of barbarians, savages, infidels, and pagans. The same applies to the English expansion. While religion and the right to spread Protestant faith were present in the initial Dutch and English overseas expansion, it is possible to observe the steady demise of the right to Christianise as a motive and legitimating element. At the same time, with the emergence of the concept of savage as opposed to European civility, the mission to impose European civilised manners and customs to barbarian and savage peoples gradually became an important motive and legitimating argument of the Protestant overseas expansion.

Rather than an attempt to systematise a body of rules that could regulate international relations between sovereign states, the *jus gentium* conception developed by Grotius was much more a theory of morality that was sensitive to difference, and that could work as a guide to international

relations between various actors. His reflections on a *jus gentium* with divine, natural, and human sources were essentially a response to a reality that preceded him, including the Dutch and other Europeans' discriminatory views of non-Europeans. When it comes to the relations between Europeans and non-Europeans, Grotius was greatly influenced by Vitoria, and subscribed and reinforced the view of the Spanish scholastics on the matter, namely that barbarians/savages/infields were rational beings and were rightfully entitled under natural law to own property. There are various parallels between Vitoria and Grotius, not only the fact that they were both attempting to think through already unfolding imperial enterprises through a moral point of view, but they were concerned with the events they witnessed. Many of the same questions that arose in the Spanish colonisation of the Americas were present in the context of the Dutch expansion, including the absence of any sort of restraint over the colonialists' actions. When placed in context, it is easy to see why Grotius, who was absorbed by questions of morality and justice among all human beings, could hardly have been an apologist of discriminatory views towards non-Europeans. To justify such views was surely not his intention, and the claim that his work could have generated the division between civilised states and uncivilised political communities is misplaced.

Chapter 5 - An International Society of Civilised States

I have always thought with you, that we possess at this time very great advantages towards the knowledge of human Nature. We need no longer go to History to trace it in all its stages and periods. History from its comparative youth, is but a poor instructor. But now the Great Map of Mankind is unrolled at once; and there is not state or Gradation of barbarism and no mode of refinement which we have not at the same instant under our View. The very different Civility of Europe and China; The barbarism of Tartary, and of Arabia. The Savage State of North America, and of New Zealand.

Edmund Burke, 1777 letter to William Robertson, in Marshal and Williams (1982: ii).

5.1 Introductory Remarks

The aim of this chapter is essentially twofold: (1) to reflect on the concept of civilisation in eighteenth and nineteenth century international society, and the related functions that the existence of the concept necessarily entails; and (2) to address a few claims in the literature about the relationship between the nineteenth century positivist turn in international law and the civilised-uncivilised dichotomy. Regarding the first point, chapter 3 discussed how the conquest of the Americas revived the concept of barbarians, which necessarily implied a sense of ethnocentric superiority of those who employed the concept. Chapter 4 illustrated how the mission to export civilised values, manners, and customs as a justification for the subjugation of barbarian and savage peoples became ever more present in the European expansion since the sixteenth century, as the duty and right to Christianise gradually waned. Nevertheless, as it will be addressed below, a few scholars argue that the eighteenth century represents a period of change vis-à-vis the European concept of civilisation.

A prominent thesis about the relationship between European imperialism, the civilising mission, and international law remains that of

Alexandrowicz (1967). According to him, it was the nineteenth century positivist turn in international law that generated discriminatory relations between European states and non-European peoples/political communities in the 'East Indies', and the consequent forced subordination of the latter by the former. What happened was that positivist international law came to establish a division between the civilised states that belonged to international society of sovereign states, and the uncivilised non-European political communities not entitled to sovereign status. Alexandrowicz thesis about the causal role of positivist international law still is an important reference for a number of scholars that look at the relationship between international law and European imperialism and colonialism (e.g. Gong, 1984: 9; Anghie, 1999: 5; 2005: 38; Keene, 2002: 28-29; Simpson, 2004: 36).

By definition, the standard of civilisation in international law is necessarily preceded by the notion of civilisation, which then generates the standards/criteria which express what is civilisation and what manners, values and behaviour are civilised. In this logic, Gong (1984: 4-5, 43-45) has pointed out to the need to understand the 'social milieu' of the standard of civilisation. The aim of the first section of this chapter is to understand the concept of civilisation in the context of eighteenth and nineteenth century international society, as seen by those who thought, wrote, and debated it during that period.³⁷ It attempts to comprehend if there is anything novel in the nature of the concept when compared to previous periods of the history of international society. It also discusses the arguments about what can be called the Enlightenment project, and its close connections to the civilising mission and the idea and category we are concerned with. The following section addresses three claims about the relationship between nineteenth-century international law and the civilising mission: (a) Alexandrowicz's thesis about the positivist turn and the standard of civilisation; (b) Anghie's (2005) argument regarding the instrumental role of positivist international lawyers in the imperial expansion of international society; and (c) Simpson's claim about the Grotian tradition as generating, since the Congress of Vienna (1815), the legal category of outlaw, uncivilised state based on the state's internal characteristics.

5.2 Enlightenment and Civilisation

According to Mazlish (2004: xiii-xiv, 1), there is an important difference between 'the old, simple dichotomy civilised and barbarian' and the appearance in the eighteenth century of 'the neologism 'civilisation''. While it is often assumed that the 'reified noun' civilisation has always been present, this is only the case with the adjective 'civilised.' The former, he argues, is a specific product of eighteenth century European Enlightenment and did not exist before it.³⁸ Mazlish (2004: 73) does recognise that 'the line between the two [civilised and civilisation] is hardly rigid.' For example, as discussed before, the letter of Maximus the Confessor written in the seventh century referred to the barbarous Arab invasions as a threat to Christian 'civilisation'.³⁹ Bar the extreme assumption that the noun civilisation was never uttered before the eighteenth century, Mazlish's argument is still pertinent, in the sense that in the eighteenth century the concept of 'civilisation' became far more preponderant in international society when compared to previous periods. Both Collingwood (1992: 280-285, 481-488) and Mazlish's (2004: 73-90) attempts to comprehend the essential meaning of the concept of civilisation focus on understanding what a number of people that used it in eighteenth and nineteenth century Europe meant by it. Their conclusion is that civilisation was most often understood as a civilising *process* towards the ideal of civility, and of resistance against or which led away from barbarism or savagery.

In Mazlish's (2004: xiii-xiv, 7-8) view, the Enlightenment ideas came to offer a 'universal measuring rod: a civilisation had certain material characteristics and it behaved and thought in a certain spiritual manner.' He highlights in particular the Enlightenment ideas' 'overturn of religious beliefs, the secular emphasis on human reason and progress, and the influence of natural history and the attempt at scientific classification.' In this context, the concept of civilisation came to be seen as 'the last state in the movement of humanity from savagery to barbarism and then to civilisation.' A similar point is made by Starobinski (1993: 3-4), who notes that civilisation and progress are two concepts that arose simultaneously in Europe. Civilisation 'included such notions as improvements in comfort, advances in education, politer

manners, cultivation of the arts and science, growth of commerce and industry, and acquisition of material goods and luxuries.' It referred first to 'the process that made individuals, nations, and mankind civilised' and then 'to the cumulative result of that process. It served as a unifying concept.' The concept became much more preponderant in international society, reflecting the shared conscience that international society was the realm of civilisation, the end point of the civilising process. As Gong (1984: 5) and Grew (2000: 291) note, the increasing self-identification of international society with a coherent group of civilised states and no longer with Christian peoples was a defining mark of this period. According to Voltaire (1694-1778), Europe was

kind of a great republic divided into several states, some monarchical, the others mixed; the former aristocratic, the latter popular, but all corresponding with one another. They all have the same religious foundation, even if divided into several confessions. They all have the same principles of public law and politics, unknown in the other parts of the world (in Gong, 1984: 46).

This picture reflects the Europeans' prevailing view of the political and geographical space they shared, one that also influenced their perceptions of the extra-European world.

The power and preponderance of the concepts of civilisation, civilised, and civility in eighteenth and nineteenth century international society is well illustrated by the fact that most if not all the main Enlightenment thinkers wrote about the topic. The liberal conception of man and society is central in these debates about civilisation and the civilising process. In particular, and despite the diversity and complexity of the various liberal currents, crucial features of liberalism, namely universalism, egalitarianism, individualism and the rights of man, and belief in the progress of politics and society (Gray, 1995: xii-xiii), are all present in the work of Enlightenment philosophers. Beyond the influence of English and Scottish liberalism, French thinkers and *bourgeoisie* played a central role in the dissemination of Enlightenment ideas, even if Enlightenment was a more pluralistic, and less homogeneous age than what is often recognised. Indeed, this period is characterised by historians as the 'French Age', when French language,

literature, and customs were hegemonic and spread across Europe (Dorn, 1940: 179-182). *Civilité* had an important political connotation in the context of the French revolution. Montesquieu and Rousseau associated *civilité* with citizenship and political virtue, namely with the ideas of *égalité* and *liberté*. These ideas became central 'in Republican morality' (Richter, 1995: 102-107), and were discussed as a solution to the problems faced by the absolutist French monarchy (Mazlish, 2004: 13).

According to Kant, 'Enlightenment' represented the 'man's emergence from his self-incurred immaturity.' He defined immaturity as 'the inability to use one's own understanding without the guidance of another. For Enlightenment... all that is needed is freedom... freedom to make public use of one's reason in all matters... if it is asked whether we at present live in an enlightened age the answer is no, but we do live in an age of Enlightenment' (Brown et al, 2002: 379-381). Kant's words provide an idea of the Enlightenment as 'an intellectual project in collision with tradition.' The Enlightenment does represent a group of scholars, philosophers, writers, and activists who shared a belief in the generic values of progress, liberty, tolerance, and criticism. However, this general characterisation hides a much more complex and diverse picture. In particular, while some of these thinkers believed piously in the potential of rationalism and the natural sciences to be a powerful driving force of progress not only in politics but in all fields of human activity, others were quite skeptic about those ambitions (Brown et al, 2002: 379-381). The thesis defended by Mazlish's (2004: 1, 20-67), Starobinski (1993: 5), and other scholars (e.g. Pagden, 1988; Buchan, 2005), that the idea of civilisation and the civilising process as imperial/colonial ideology is a product of the European Enlightenment, ignores that there was not a unified view about those matters among some of the most important Enlightenment thinkers. It is even likely that some of them might have had great doubts about these issues. In this regard, Muthu (2003: 1, 259-266) argues that the Enlightenment ideas are best characterised by pluralism rather than homogeneity. The purpose of the remaining of this section is to shed light on these era's debates about empire, civilisation, the civilising mission, and the status of non-Europeans. While the influence of

Enlightenment thinkers on these issues is undeniable, their thoughts on these matters were far from monolithic.⁴⁰

In *The Spirit of the Laws* (1989: 234, 290-291), Montesquieu (1689-1755) related the climate in the South with the Indians' 'barbaric customs', and argued that they needed a stronger legislator than Europeans. He attempted to understand the difference between barbaric and savage peoples:

The difference between savage peoples and barbarian peoples is that the former are small scattered nations which, for certain particular reasons, cannot unite, whereas barbarians are ordinarily small nations that can unite together. The former are usually hunting peoples; the latter, pastoral peoples.

He is commonly seen as the father of political and economic liberalism, and proponent of the advantages of commerce. As Cavallar (2002: 266-267) explains, for Montesquieu 'trade could potentially turn people into gentler beings, cure "destructive prejudices", and lead to peace. Yet he argued that freedom of commerce was not about granting traders the freedom to do whatever they want, and believed in regulations "in favour of the state"'. His argument seems more utilitarian than moralist. In his view, colonies could foster national power, but could also undermine it (Cavallar, 2002: 266-267). Nevertheless, Montesquieu (1989: 250) also explained how he would build a moral case against slavery. As he saw it, it was the 'extermination' of the peoples of America by the Europeans that led the latter 'to make slaves of those of Africa in order to use them to clear so much land.'

In *Discourse on the Origins and Foundations of Inequality Among Men* (1984: 114-115), Rousseau (1712-1778) argued that 'many authors have hastened to conclude that man is naturally cruel and needs civil institutions to make him peaceable, whereas in truth nothing is more peaceable than man in his primitive state.' Rousseau's study of man in the state of nature, a state which he doubted that could ever have existed, was driven by his quest to reach or comprehend the essential nature of humanity (Williams, 2005: 58-59). In the Enlightenment, the term 'natural man' was often used to refer to those who were still unfettered by the moral and

intellectual constraints of civil society (Pagden, 1982: 8). This feeling of sympathy towards the image of the natural man or the noble savage is quite characteristic of the Romantic movement of which Rousseau is often considered to be the founding figure, despite the German origins of the movement. Rousseau highlighted the qualities of the savage, namely 'the absence of greed, kindness, and being characteristically a good husband and father' (Russel, 1946: 651, 668). He was an evolutionist, in the sense that he spoke of the passage of man from the state of nature to 'nascent society' (Cranston, 1984: 25, 35-37). But Rousseau's vision of the state of nature was very different from Hobbes'. As Williams (2005: 58, 65) explains, for Rousseau, the modern state was 'not the realm of freedom, security, and morality at all.' Instead, it was another form of domination. His ideas about the state of nature and the social contract were also different from those of Locke (1632-1704). Whereas Rousseau believed that the state of nature was one of equality among men, and the imposition of law represented the destruction of this ideal state, Locke defended that the state of nature was a condition that could be perfected with the establishment of a legal order that would work as a civilising system (Simpson, 2004: 32-33). In his *Second Treatise on Civil Government* (1690), Locke developed a conception of 'civil society' where men were free and equal under the law (Gray, 1995: 13-14).

Instead of claiming the inferiority of the savage man, Rousseau saw the philosophy of the Enlightenment, especially the belief in science and progress, as a development that would bring 'ruin on mankind'. 'It would destroy virtue, which was only possible in simple societies, and corrupt men' (Cranston, 1984: 25, 35-37). For Rousseau, the civilisation's 'degrading of human nature had started with the first act of a person claiming enclosed land as his own.' This generated tyranny and conflict (Fidler, 1996: 122-125). The example of the savages confirmed that that state was the genuine one and that le *genre-humain* should have remain in it. 'All subsequent progress has been so many steps in appearance toward the perfection of the individual, and in effect toward the decrepitude of the species', he argued (Muthu, 2003: 35). His opposition to imperialism and colonialism is evident. As Rousseau put it, 'nothing is as oppressed and miserable as conquering nations. Their success abroad only increases their misery at home.' He was

also far more suspicious of the supposed benefits of commerce than Montesquieu was (Cavallar, 2002: 256, 284-287). He noted the way that the European prejudices towards non-Europeans influenced decisively travel and anthropological accounts of the New World (Muthu, 2003: 31-33). As he argued in *Discourse* (1984: 212), 'although the inhabitants of Europe have for the past three or four hundred years overrun the other parts of the world, and are constantly publishing new collections of travels and reports, I am convinced that the only men we know are the Europeans.'

The ambiguity of Enlightenment thinking in relation to empire and the civilising mission is evident in Diderot (1713-1784). He talked about the possibility of a 'soft colonialism', whereby the natives would voluntarily and peacefully receive the Europeans and adopt their religion, manners, and technology. He also shared with other Enlightenment thinkers the belief in the existence of 'degrees of humanity', but contrary to Rousseau he believed in the superiority of the civilised. He thought the Europeans were more civilised than savage nations, but also that the former were barbarians due to immoral practices such as slavery (Cavallar, 2002: 263). This ambivalence of thought is even more puzzling when compared to a number of his writings, which reveal him as fierce critic of empire and colonialism. He argued that the lack of supervision of legal institutions and sanctions over the 'uncivilised colonists' was the main reason why colonial empires were often sites of extreme brutality. He rejected the notion that foreign traders had the right to access inhabited lands, arguing that past experience showed that European traders were 'dangerous as guests.' His condemnation of European imperialism was based on its disastrous effects upon non-European peoples: 'it seems as if from one region to another, prosperity has been pursued by an evil genius that speaks our [European] several languages, and which diffuses the same disasters in all parts.' He saw European imperialism as increasingly driven by commercial ambitions of European trading companies, despite other motivating forces such as geopolitics, the civilising mission, and religious conversion. In his analysis of the British Empire in India, Diderot denounced the devastation caused by conquest and trade. 'The rage of conquest, and what is no less destructive an evil, the greediness of traders have, in their turns, ravaged and oppressed the finest country on the face of

the globe', he wrote. In his view, what started as a trading enterprise had soon transformed into absolute rule. Quite interestingly, Diderot noted that internally weak and vulnerable nations would inevitably fall in the hands of conquering nations. Yet this process would produce even a worst kind of barbarism, due to the clash between the conquerors' customs, religions, manners, and languages, and that of the conquered. Diderot believed that the result of this forceful coexistence, one that so far had been very limited, would be a chaos that would last for centuries (Muthu 2003: 75-97).⁴¹

This ambivalence regarding empire and the civilising mission is also characteristic of Kant's (1724-1804) thoughts about the matter. His *Perpetual Peace: A Philosophical Sketch* (based on Abbe de St. Pierre's work), aimed to understand the relations between political communities through a social and moral perspective, in order to envision a scenario where moral life was universally possible (Richmond, 2005: 25-27). Yet his views regarding the civilising mission are quite inconsistent. His inconsistencies have led to two different explanations. The most common is that Kant has a pre-critical and a critical period. Another explanation lies in the radical division that Kant established between ethics and anthropology, in the sense that he argued that racially inferior nations enjoyed of equal rights. Numerous passages of his writings about non-Europeans have been depicted as racist and ethnocentric, and it is easy to see why. He wrote for example that 'the race of the American cannot be educated... They hardly speak, do not caress each other, care about nothing and are lazy.' He believed that Africans could be educated, 'but only as servants (slaves), that is if they allow themselves to be trained.' For him, the white race was superior to any other race, because it 'possesses all motivating forces and talents in itself' (Cavallar, 2002: 348). While the nineteenth century is commonly considered as the age of race-based classifications among European thinkers, theories about race were developed by eighteenth century natural historians such as Buffon and Blumenbach. Kant contributed to these theories with his attempt to account for the diversity not only of customs and traditions, but also of skin colour and physiognomy, as evidenced by a number of essays and lectures on anthropology and physical geography. Some of his writings also depict him as an evolutionist. In his social contract theory, Kant argued that individuals

in the state of nature, such as the inhabitants of the New World, should leave their non-civil condition and establish a government based upon the rule of law (Muthu, 2003: 182, 200).

Yet, in his late writings, Kant departed from the typical ethnographic representations of non-European peoples of the eighteenth century: biological/intrinsic ability and environmentally induced characteristics. The sociologically based distinction between hunting, pastoral, and agricultural peoples he adopted, with the goal of understanding diversity, served as the basis for the pluralistic argument that they were all rational peoples whose practices were not determined biologically or by the climate. Kant's work is also full of statements critical of imperialism and paternalism, including the repudiation of the Europeans' eagerness to acquire colonies by 'fraudulent purchase' of the lands of non-Europeans 'without regard for their first possession.' He defended the freedom of all societies to organise themselves in the way they saw fit. He believed that the power of European states would continue to be a problem in Europe and beyond, a problem which influenced his theory of justice and rights in many important ways. His ideas about philanthropy are even more critical. He denied that there was a special moral merit of the rich in helping others in need, given that the very existence of such inequality and humanitarian necessity already derived from a situation that was 'politically maintained' (Muthu, 2003: 172, 180-182). Kant defended the rights of various non-European peoples (in Southern Africa and Siberia) against the territorial ambitions of Europeans. Very much in Vitoria and Grotius' line, he argued that non-Christians were rightfully entitled to ownership and property and developed a more restricted conception of international hospitality than Vitoria. He rejected the argument that civilised nations had a duty/right to civilise savage or barbarian nations, and considered such attempts violations of mutual spheres of external freedom of the cosmopolitan world republic (Cavallar, 2002: 349-362).⁴²

By the late eighteenth-early nineteenth century, it became quite common to speak of civilisation as a matter of degree (Collingwood, 1992: 488).⁴³ Burke's (1729-1797) words at the beginning of this chapter are a clear example of that. As Welsh (1995: 1) explains, Burke has been associated by scholars with a variety of 'causes and political traditions',

including modern conservatism and liberal utilitarianism. He was a fierce opponent of the revolutions of his time, above all of the French revolution. He was also, as Vincent (1984a: 216) puts it, a 'great imperialist', but as an MP he often criticised British imperial policy in India, America, and Ireland, especially the British denial to indigenous of their traditional rights. He believed in the civility of Europe and his ideas were characterised by the paternalism of his era, but he was sceptic about the civilising mission. For Burke, civilisation did not stop at the borders of Europe. China was civilised, and so was India before the British conquest. India was not, according to Burke, constituted by 'an abject and barbarous populace; much less of gangs and savages... but peoples for ages civilised and cultivated' (Vincent, 1984a: 206-207, 216-217). According to Welsh (1995: 41-44), Burke's conception of rights was heavily influenced by Grotius and stands in the via media between naturalism and positivism. Burke believed that natural law could govern the relations between Europeans and non-Europeans, but he developed a conception of 'public law of Europe' to regulate relationships between the members of international society.

The travel literature provided a feeling of growing awareness about the world beyond Europe, and it became fashionable to compare European societies to other societies in terms of the amount of progress each had achieved. A renowned writer of travel books hoped that his work on China could 'enable the reader to settle in his own mind, the point of rank China may be considered to hold in the scale of civilised nations.' This way of accounting for the progress of human societies is most commonly associated with the work of Adam Smith and other Scottish philosophers of the Enlightenment such as David Hume, John Millar, William Robertson, and Adam Ferguson (Marshal and Williams, 1982: 2, 134).⁴⁴ A former Russian student of Adam Smith and John Millar gave a lecture at Moscow University in 1781, where he argued that it was not possible to 'measure the various successes of the human race, its risings and falling, on the basis of its imputed childhood, youth, maturity, and old age.' Yet, he went on to say:

Fortunately for our times, the newest and most assiduous explorers of human nature have discovered incomparably better

means for studying nations in their various successes according to the circumstances and conditions through which those peoples starting from their primordial society with wild animals, rose to the highest degree of greatness and enlightenment' (in Meek, 1976: 6).

In 1794, Condorcet published *The History of Human Progress*, a renowned defense of the meliorist doctrines and belief in the perfectibility of mankind characteristic of this era (Gray, 1986: 19).

As Cavallar (2002: 265-266) explains, the idea that the economic philosophers of the Enlightenment 'were supportive of a "naïve" cosmopolitanism, whereby global commerce was a unifying and pacifying factor' is widespread in the literature. The same is true in relation to the view that they criticised colonialism, mercantilism, and opposed conquest as a 'futile endeavour.'⁴⁵ Again, such simplistic views seem not to make justice to a more complex picture. Adam Smith is considered as one of the fathers of economic liberalism and liberal internationalism. He is most often depicted as a rejectionist of the association between national economic wealth and national power. Yet, according to Walter (1996: 142-144), in *The Wealth of Nations* (1766) Adam Smith rejects a natural harmony of interests and supports mercantilist policies. Cavallar (2002: 272-275) also highlights that Smith's ideas 'are indeed conventional rather than revolutionary.' This said, he did offer a moral condemnation of colonialism and hoped for a better future for non-Europeans. Quite in contrary, David Hume seems to have been less critical of the civilising mission. As he wrote in the essay titled 'Of National Characters' (1748), 'I am apt to suspect the Negroes, and in general all the other species of men (for there are four or five different kinds) to be naturally inferior to the whites. There never was a civilised nation of any other complexion than white, nor even any individual eminent either in action or speculations' (Muthu, 2003: 183).

Influenced by Adam Smith's lectures, Ferguson is believed to be the first to have used the word civilisation in English (in 1752). He also developed a clearer version of the theory according to which there were for stages of human social organisation, defined by the types of economic activity and modes of subsistence: 'savage (hunter-gatherer), nomadic pastoral,

sedentary agricultural, and industrial-commercial' (Starobinski, 1993: 4). Nevertheless, he doubted the view that the inhabitants of the New World were asocial and purely natural. As he wrote in 'An Essay on the History of Civil Society' (1767), 'Thucydides, notwithstanding the prejudice of his country against the name of Barbarian, understood that it was in the customs of barbarous nations [that] he was to study the more ancient manners of Greece' (Muthu, 2003: 315).

Also influenced by the likes of Adam Smith and James Bentham was John Stuart Mill (1806-1873). In his essay 'Civilisation' (1836), he noted how

we are accustomed to call a country more civilised if we think it more improved; more eminent in the best characteristics of Man and Society; farther advanced in the road to perfection; happier, nobler, wiser. This is one sense of the word civilisation. But in another sense it stands for that kind of improvement only, which distinguishes a wealthy and powerful nation from savages or barbarians. It is in this sense that we may speak of the vices or the miseries of civilisation; and that the question has been seriously propounded, whether civilisation is on the whole a good or an evil.

Although he recognised the contentious nature of the civilising mission, Mill made an acute distinction between civilised and barbarian nations, and believed in the impossibility of reciprocal relations between them on the basis that barbarians 'as a nation' have no rights (Brown et al, 2002: 487-489), although he consented that barbarians as individuals did possess some rights (Cavallar, 2002: 372). Grew (2000: 503) argues in this regard that the Anglo-American legal positivism has close connections with the ideology of Mill. He was an important proponent of British imperialism, surely not alien to the fact that he was not only a scholar, but an official of the British East India Company. Mill developed the argument, one that became greatly influential among the following generation of liberal imperialists, that the threat by economic and political rivals to England's once dominant position should be countered by the retention of empire and its expansion. This position, according to Sullivan (1983: 605), marks a steep departure from the classical liberal tradition that Mill inherited. For Mill, the colonies of Canada, Australia, and New Zealand, with populations of 'European race', and at the same

stage of civilisation as the English, should be granted 'home rule' because they were perfectly capable of governing themselves. They should only be subject to England in matters of international affairs. On the contrary, the barbarous and uncivilised peoples of Asia and Africa could not govern themselves. The solution Mill proposed to these cases was a type of benevolent despotism, to be administered by autonomous bodies like the East India Company (Sullivan, 1983: 599-606).

In the nineteenth century, as Marshal and Williams (1982: 300-301) note, the concept of backward became a popular and influential one. Associated with the theories of stages of development, it implied the 'opportunity for improvement.' Increasing calls for more scientific, detailed, and impartial observation of the non-European world and societies, which sidelined the travel literature with the label of amateurish, did little to avoid generalisations about non-European peoples and societies. In this context, Darwin's theory of evolution and natural selection was highly influential.⁴⁶ Also influential was Joseph Arthur de Gobineau's *Essai sur l'Inégalité des Races Humaines* (1853-1855), that defended the thesis that the races of humankind were divided into black, yellow, and white. In his view, the latter, particularly those of Aryan descent, were better equipped for civilisation (Diller, 1971: 9). Thus, slavery was justified under the logic that superior races should rule over inferior ones (Gong, 1984: 48). Particularly in Britain, the assurance of intellectual, moral and practical superiority was in itself a justification for expansion. The notion of the savage as the man that was free from the negative influences of Western organised society was no longer influential. The views of the savages were either of criticism or of concern. As Marshal and Williams (1982: 300-301) put it, 'the life of the savage was not an alternative to that of the European: it was enforced backwardness produced by adverse circumstances.' The idea of changing non-European societies for the better through outside intervention became a hallmark of this era, expressed in the abolitionist movement, in the humanitarian ideas, and in the founding of missionary societies. In the words of a contributor to the *Edinburgh Review* in 1802, 'Europe is the light of the world, and the ark of knowledge: upon the welfare of Europe, hangs the destiny of the most remote and savage people' (Marshall and Williams, 1982: 300-303).

Illustrative of the lasting repercussions of this vision of the world and mode of thinking about most non-European political communities is Lord Salisbury's speech, in 4 May 1898, to an audience at the Royal Albert Hall in London. The Living and Dying Nations' speech reflected about the differences of progress between political communities. It applied Darwinian principles to the international states system and to the challenges facing Britain (Morton, 2005: 372), in the context of European's definitive conquest and colonisation of Africa. According to Salisbury:

You may roughly divide the nations of the world as the living and the dying. On one side you have great countries of enormous power growing in power every year... by the side of these there are a number of communities which I can only describe as dying... ...and in these States disorganisation and decay are advancing almost as fast as concentration and increasing power are advancing in the living nations that stand beside them. Decade after decade they are weaker, poorer, and less provided with leading men or institutions in which they can trust... ...and in their various degrees they are presenting a terrible picture to the more enlightened portion of the world – a picture which, unfortunately, the increase in the means of our information and communication draws with darker and more conspicuous lineaments in the face of all nations, appealing to their feeling as well as to their interests, calling upon them to bring forward a remedy. ...it needs no specialty of prophecy to point out to you what the inevitable result of that combined process must be. For one reason or for another – from the necessities of politics or under the pretense of philanthropy – the living nations will gradually encroach on the territory of the dying and the seeds of and causes of conflict among civilised nations will steadily appear... Of course it is not to be supposed that any one nation of the living nations will be allowed to have the profitable monopoly of curing or cutting up these unfortunate patients, [laughter] and the controversy is as to who shall have the privilege of doing so, and in what measure he shall do it. Undoubtedly we shall not allow England to be at a disadvantage in any rearrangement that may take place.

Salisbury described the dying nations as both an opportunity that appealed to values and interests, and a concern or problem. The concern lied not only with the instability and misgovernment of those nations, but also with the danger that Great Powers would eventually need to intervene, which could lead to conflict among the latter. His speech also reveals a perception about the unity of mankind, with common challenges and problems, accentuated by

the revolution in the means of information and communication. On the one hand, Salisbury is described as a deeply moral individual, to whom human suffering was an evil (Grenville, 1964: 6, 19). He is characterised as a reluctant imperialist, sceptic of the benefits of colonies both for the colonising powers and the colonised (Roberts, 1999: 42-43, 169). On the other, Salisbury nurtured and extended massively the British Empire for about fourteen years (Roberts, 1999: 2). The edition of the Canadian newspaper *Daily Mail and Empire* of 21 May 1898, published Salisbury's speech with the subtitle: 'Weak States Grow Weaker, and the Strong States are Becoming Stronger – What Will be the Result?'⁴⁷

This centrality of the notion that the purpose of empire was to civilise/change the backward, to place them in the path of progress, and eventually bring them into the realm of civilisation, is an important legacy of the Enlightenment. Notwithstanding the plurality of views of the Enlightenment and liberal thinkers about the topic, the optimism and at the same time the concern regarding the progress of all mankind seems to mark a certain departure from the previous nature of the civilising mission, one less troubled about the fate of those barbarians and savages to be civilised. That this worked as a powerful justification and legitimating element (Anghie, 2005: 96-97) is undeniable. Yet to dismiss it as simply an empty but instrumental justification for the pursuit of other goals such as trade and profit seems rather simplistic, particularly when bearing in mind moral and philosophical setting of the time (Bain, 2003a: 14-15). In this regard, Collingwood (1992: 501-502) notes that one of the most prominent senses of the 'civilised man' in the nineteenth century was the man 'who treats his fellow-men with 'civility.'

5.3 The Standard of Civilisation in International Law

The previous section was based on the assumption that it is not possible to comprehend the emergence of the standard of civilisation in international law, without first looking at the concept of civilisation in international society. Likewise, the positivist turn in international law can only be understood in the

context of wider developments in international society. As Simpson (2004: 31) explains, positivism in international law refers to the 'move towards removing the philosophical precepts, namely naturalist ones, from the foundations of the legal order for the sake of the agnostic pursuit of clarity and certainty.' It is characterised by the need to justify law on scientific basis, and by a quasi-obsession with codification (Berkowitz, 2005: 2). It is based on the primacy of the state, in the sense that states are the main actors of international law and are only bound by the laws to which they consented (Anghie, 2005: 33).

If the sixteenth and seventeenth centuries can be seen as the formative period of international society, the eighteenth century was one of consolidation. As referred to before, the balance of power was only implicitly present as an objective in Westphalia. Explicit reference was made to the principle in The Treaty of Utrecht (1713) that placed an end to the War of Spanish Succession. The treaty would mention that 'the peace and tranquillity of the Christian world may be ordered and stabilised in a just balance of power, which is the best and most solid foundation of mutual friendship, and a lasting general concord' (Wight, 1973: 89-91, 98). Vattel would define the balance of power in *Droit des Gens* (1758) as 'a state of affairs such that no one power is in a position where it is preponderant and can lay down the law to others' (Bull, 1977: 97). The balance of power was the crucial anti-hegemonic mechanism, one that reflected the commitment to prevent a return to formal hierarchy in Europe. All the European Great Powers, not only France and Austria, but also Britain, Prussia, Russia, and the Ottoman Empire, were active participants in the balance. And so were Spain, the Netherlands, and Sweden, the three drained by war and weaker than they were. In the diplomatic profession, foreign offices and ministries of external affairs were created, and congresses were held to convene statesmen and professional diplomats. Together with the definitive institutionalisation of the balance of power and diplomacy, the instrument of war became an explicit norm of international society in the eighteenth century. War was now conducted by professional paid armies with national uniforms. The use of force was one more persuasion element in the

necessary adjustments to the balance of power, for the sake of preservation of sovereign equality (Watson, 1992: 199-206).⁴⁸

Increasingly, the notion of a natural law of nations came to be seen as unsatisfactorily vague. Thus, this period also witnessed a move towards the systematisation and secularisation of what, particularly in the second half of the eighteenth century, would be gradually referred as the 'public law of Europe/*Droit public de l'Europe*' (Grew, 2000: 292). In this regard, Watson (1992: 202-203) argues that, in the eighteenth century, international rules no longer had a natural or divine source, and could now be negotiated by the members of international society so as to be in accordance with unfolding practice. He points in particular to the work of Vattel, who emphasised the equality of all states with respect to the law of nations. As he put it, 'a dwarf is as much a man as a giant is: a small republic is no less a state than the most powerful kingdom.' Without the balance of power, Vattel argued, there would not be much point in developing these rules, aim of which was to provide more civility, order, safety, peace, and predictability to international relations. Yet, the assumption that he was a positivist might be somewhat misleading, given that Vattel referred constantly to 'men's rights and obligations asequally proceeding from nature' (Stirk, 2011: 7-8).⁴⁹

The point made by Gong (1984: 4) that the second half of the eighteenth century witnessed the demise of the idea of a Christian Europe and its replacement by a notion of European secular states seems pertinent. Nevertheless, Christian religion still influenced the foundations of international rules. As Grew (2000: 288-299) explains, beyond the 'spheres of rational speculation, all throughout the eighteenth century the international treaties reveal that the public law of Europe was still very much a legal order of "Christian Europe"', as per the wording of that time. As the allusion above to the 'peace and tranquility of the Christian world' in the Treaty of Utrecht exemplifies, the preambles of these treaties are full of references to the Christian character of international society. Grew (2000: 291) pertinently notes that to interpret these references as formalities without meaning is to ignore the fact that, in this time, 'much care was accorded to give an appropriate outward appearance to intellectual content.' Georg Friedrich von Martens (1756-1821), an important German professor, jurist and diplomat,

considered by some to be one of the key figures that oversaw the legal transition from naturalism to positivism (e.g. Koskenniemi, 2008: 190, 193-197), identified 'the similarity of morals in Christian Europe' as the foundation of international law. These words attest to the idea that, while the defining element of eighteenth century international society was the independent character of the state, the Christian heritage still mattered in the definition of international rules. What had once been an idea of solidarity between Christian peoples was now in the process of being replaced, as Grew (2000: 291) puts it, by a secularised notion of 'the solidarity and cohesiveness of the Western Christian nations.'

The gradual demise of the influence of religion in politics and the organisation of all spheres of life within the realm of the state, on the basis of a mechanical understanding of the world, is pointed out by most historians as one of the defining features of eighteenth century Europe. Dorn (1940: 17-18, 184-190) illustrates how, despite cultural, economic, and social differences among European states, the 'Leviathan state' became a reality adapted to each particular national context in Europe, including France, Spain, The Hapsburg Monarchy, Prussia, Russia, and England. Propelled by a whole range of new inventions and processes of industrial production, and supported by the booming colonial commercial activity, the Industrial Revolution generated a wave of economic growth and material prosperity in Europe and America. The dissolution of the feudal order and the preoccupation with administrative issues all over Europe were reflected on the creation of a variety of new government departments, including for the registration of properties, lands, and stock. This period also witnessed an unprecedented construction boom, with the building of infrastructures such as dams, canals, bridges, and roads (Dorn, 1940: 17). The notions of achievement, reason, progress, science-based knowledge, secularisation, economic growth, industrialisation, order, social efficiency, bureaucratisation, were all translated into the way European states and governments were organised (Darwin, 2008: 25-26).⁵⁰

In this context, positivism reached all sciences, and it had a clear political purpose. As Simon (1963: 4) puts it, 'positivism was in fact more than a method', it was a 'system of affirmations', a 'conception of the world and of

man.' The aim was the development of not a philosophy but a system and a doctrine for science as a whole. The most important aim of this system was the re-organisation of society, the regeneration of humanity. Henry de Saint-Simon (1760-1825) is one of its early proponents, and August Comte, who was mentored and employed by Saint-Simon, became positivism's most prominent figure (Lenzer, 1975: xxxv). The very term positivism in the context of international law was coined by Comte in his *Cours de Philosophie Positive* (1830-1842) (Gong, 1984: 47). According to Comte, the philosopher should become the holder of the 'spiritual power', 'the High Priest of the Religion of Humanity' (Simon, 1963: 5-6, 35). Comte (1975: i) himself hoped that 'the motto that I have put forward as descriptive of the new political philosophy, *Order and Progress*, will soon be adopted spontaneously.' As Comte (1975: 317) wrote in *Système de Politique Positive* (1851-1854), in a chapter titled 'Social Dynamics, or Theory of the Natural Progress of Human Society': 'Positivism consists essentially of a philosophy and a polity. These can never be dissevered – the former being the basis, and the latter the end, of one comprehensive system.' *Système* was a more elaborated work than his earlier 'Plan of the Scientific Operations Necessary for Reorganising Society' (1822). In the 'Plan', he reflected upon 'the successive states the human race must pass' on the path towards perfection. He made a call for observation based 'upon the nature of things', stressing the relative state of civilisation. He criticised the theoretical assumptions of some of his contemporaries: 'each of them perceives in its peculiar system of institutions a sort of universal panacea applicable to all political evils.' However, according to Comte, they disregarded the 'stage of civilisation actually reached by the people for whom the remedy is destined.' According to Comte, civilisation was man's power over nature, and the components of civilisation were science, fine arts, and industry (Lenzer, 1975: xxxiv-xxxvi).

The positivist system was quite influential in Europe, which is only natural given the social, philosophical, and scientific developments that characterised the European Enlightenment, and of which positivism was also a product. These included the belief in scientism, phenomenalism, the atmosphere of anticlericalism, the faith in the potentialities and perfectibility of men, the betterment of society, secularism, pragmatism, and utilitarianism

(Simon, 1963: 9-10, 44-46). According to Simon (1963: 46) positivism embodied 'totalitarian notions of social engineering.' Among the most notable exponents of positivism were Pierre Laffitte, author of a *General View of Chinese Civilisation*; Émile Littré, who published various works on positivism and politics; John Stuart Mill; Henry Thomas Buckle, author of *History of Civilisation in England* (1856-1865); or Arthur de Gobineau (Simon, 1963: 264, Gong, 1984: 48-49).

The definitive transformation from natural law doctrine to legal positivism occurred in the nineteenth century. It took place against the background of these wider developments that included secularisation and systematisation not only in international law but in most fields of public activity, as well as the consolidation of the state and the reinforcement of its power (Grew, 2000: 503; Cavallar, 2002: 371). In particular, the idea that treaties of Vienna of 1815 mark the definitive shift towards positivism is widely shared in the literature (Alexandrowicz, 1967: 11; Grew, 2000: 288-289). As Grew notes, the treaties contained the formula '*toutes les nations civilisées de la terre*.'⁵¹ The Declaration against the Trade of Negroes, also signed in Vienna, reflected the idea that slave trade was an uncivilised practice. This move towards abolition followed an intellectual attack on both slavery and slave trade, one that became particularly acute in the last third of the eighteenth century including in Britain, France, and the US, as reflected in the formation of numerous abolitionist societies (Clark, 2007: 40). Although dominant, juridical positivism was contested during the nineteenth century by some international lawyers who did not restrict international law to the custom of civilised states, and recalled the previously existent natural law of nations (Grew, 2000: 503-512).

A renowned thesis about the relationship between positivist international law and European imperialism and colonialism remains Alexandrowicz's (1967: 1-4) history of the law of nations in the 'East Indies.' The term 'East Indies', as Alexandrowicz (1967: 1) uses it, includes not only the Indian subcontinent but also Ceylon, Burma, Siam, and the Indonesian Islands. That term 'also extends in a wider sense to Persia, particularly in connexion with her commercial and strategic position in the Persian Gulf', while the Ottoman Empire is 'only indirectly brought into the picture.'

According to his analysis, it was the nineteenth century positivist turn in international law that generated discriminatory relations between European states and non-European peoples/political communities, and the consequent forced subordination of the latter by the former. What happened was that positivist international law came to establish a division between the civilised states that belonged to the civilised club of European sovereign states, and the uncivilised non-European states that, because of their uncivilised character, were not entitled to sovereign status. In Alexandrowicz's view, the relations in the East Indies between Europeans and non-Europeans from the sixteenth to the eighteenth centuries were informed by a universally tolerant or non-discriminatory natural law of nations. Moreover, he argues that international law is not an exclusive product of European Christian civilisation, but the result of an interexchange of practices, ideas, and products between Europeans and non-Europeans that dates back at least to the sixteenth century. Until the nineteenth century, non-Europeans enjoyed sovereign status, and then saw that status removed by the positivist turn in international law.

Regarding the first point about the positivist turn, in the previous chapters it was rendered clear that the civilising mission and the dichotomy civilised-barbarians/savages was an important part of the European expansion at least since the late sixteenth century. In particular, the Dutch expansion into the East Indies was partly characterised by conquest, colonisation, and slavery, hardly examples of respectful or tolerant relations between Europeans and non-Europeans. Moreover, the previous section showed that the division between the realm of civilisation, i.e. European civilised states and the non-European barbarian nations and savage peoples (with a few exceptions, e.g. China) was a powerful idea in eighteenth century international society. Also, the idea of superior civilisation and simultaneously the notion of decline/crisis of non-European empires was a dominant trend in the imperial expansion of international society at least since the seventeenth century. As it will be discussed in the following chapter, this was the case with the British conquest of territories in India during the late seventeenth century and during much of the eighteenth.⁵²

Another example of how the idea of European civilisational superiority, and simultaneously the notion of decline of non-Europeans, informed European expansion is Russia's conquest of substantial territories of the Ottoman Empire. This followed a process of 'forcible westernisation' led by the Czar Peter the Great and initiated by some of his ancestors. The aim was to join the European international society of civilised states. Peter admired in particular the Protestant north of Europe, namely English and Dutch's industries, navies and traders, and Sweden's military tactics. It was this admiration that led him to tour the West (the so-called Grand Embassy) to capture ideas for his project to Westernise Russia. Russia experienced a revolution not only in the realm of the state, in industry, navy, and the military, but at the level of society. Peter expressed his determination 'to cut off his subject's beards, make them wear Western dress, emancipate the women, break the power of the anti-Western church and of the traditionalists among the aristocracy.' According to his Chancellor, 'we have stepped from the darkness of ignorance onto the stage of fame, and have joined the society of political peoples' (Watson, 1984b: 67-70). Thus, in the end of the seventeenth century, Russia experienced a period of rapid assimilation into European international society, with the declared aim of 'civilising' Russia according to the civilised standards of Western Europeans (Gong, 1984: 101-106).

This legacy was given continuity by Peter's successors and by the modernised army he created. Another feature inherited from Peter was the goal of defeating the Turks. To reach the Black Sea, then a monopoly of the Ottoman Empire and of its Muslim clients was a primary objective. Since the reign of Catherine II (Catherine the Great), Russia recovered substantial territories from the Ottoman Empire, becoming not only one of the central players in the management of European international society but also in the European expansion into Asia (Watson, 1984b: 61, 67-71). It should be mentioned that the Ottoman Empire was part of Europe's balance of power, because it was too powerful to be neglected and cooperated informally with France and the Protestant states against the Habsburgs. However, as Watson (2007: 17, 23) puts it, 'the Ottomans despised European diplomacy, and its rules and institutions, as Europeans despised theirs.' The Ottomans

even developed a code of conduct for their dealings with European states, the capitulations. As Naff (1984: 143) recalls, 'the very idea of the state was alien to Muslim political theory and the Ottoman theories of politics and government.'⁵³

As it was the case with other European imperialisms in this era, the Russians justified their conquests with the civilising mission (Darwin, 2008: 21). From the late seventeenth century until the end of the eighteenth century, the Ottomans suffered a series of setbacks and strategic defeats that would culminate with Napoleon's invasion of Egypt (Quataert, 2005: 37-51, 84).⁵⁴ As Faroqhi (2006: 3-4) notes, in the seventeenth and early eighteenth centuries, numerous European authors wrote about the topic of 'Ottoman decline', although the Ottomans still remained a force to be reckoned with. One of the most popular explanations for the Ottoman decline was, in the perspective of the members of international society, despotism and the malign effects of Islam (Marshall and Williams, 1982: 164). As Quataert (2005: 76) explains, 'the "Terror of the World" had become the "Sick Man of Europe"'. By the second half of the eighteenth century, following the Ottoman's abandonment of the traditional view of the binary *Dar al-Islam* and *Dar al-Harb* (house of Islam and house of war) which informed their views of and conquests in Europe, Ottoman rulers adopted relations with Europeans based on diplomatic usages and communications, sovereign equality, and recognition of the European law of nations. In the eyes of the European-centred international society of the second half of the eighteenth century, the Ottoman Empire had moved from uncivilised to semi-civilised status (Naff, 1984: 152-153).

So far, it was demonstrated that it was not the positivist turn in international law that generated the division between the civilised states that belonged to international society, and those political communities in the 'East Indies' seen as uncivilised. The civilising mission and the European's discriminatory views and behaviour towards non-Europeans as a practice of European states preceded the positivist turn and the emergence of the standard in international law. The other main argument advanced by Alexandrowicz – that until the nineteenth century the relations between Europeans and non-Europeans were based on the idea of sovereign equality

– defeats itself. Alexandrowicz (1967: 1-2) starts by providing an idea about a pre-nineteenth century tolerant and egalitarian world where European and non-European *sovereign states* respected each other's sovereignty, independence, and customs. However, and surprisingly (or perhaps not), Alexandrowicz (1967: 14-26, 129-144) historical illustrations pertaining to the period between the sixteenth and the eighteenth century are marked by an absence of examples about relations among sovereign entities. Instead, they are full references to: suzerain-vassal relations; instances of territorial conquest; the humiliation of envoys; the imposition of discriminatory treaty provisions by Europeans on non-European rulers; and to the imperial and colonial modes not only of Europeans but those of China and Persia. These references are all evidence that the relationship between Europeans and the non-European political communities of what Alexandrowicz calls in broad terms the 'East Indies', did not operate according to a norm of sovereign equality.

Moreover, by talking about trade concessions, treaties, and alliances between Europeans and non-Europeans, and noting that the rights of non-Europeans were recognised by Europeans, Alexandrowicz assumes that such instances are enough evidence to claim that there was a law of nations working on the basis of state sovereignty between Europeans and non-Europeans. He thus conflates the history of the notion of international law with the norm of state sovereignty, ignoring that the former naturally precedes the latter (Lesaffer, 2007: 31-32). While all part of the history of international law, a distinction ought to be made between the history of the notion/idea of international law, the history of the norm of state sovereignty as it emerged in post-Medieval Europe, and the explicit nineteenth century concept of international law.⁵⁵ This is not the refute Alexandrowicz's (1967: 3, 97) convincing assertion that Europeans learned and adopted legal expressions and provisions of Eastern origins.⁵⁶ In fact, this is something that has been pointed out by members of the ES (e.g. Watson, 1984a: 25-26).⁵⁷ Nevertheless, the sovereign state and the norm of state sovereignty is a European product, and its expansion is a result of European imperialism and colonialism.

As Keene (2002: 26-27) notes, the ES did not remain indifferent to Alexandrowicz's argument. Wight (1977: 117) gave credit to Alexandrowicz's attempt to challenge the 'orthodox' account about the 'limits of the states-system' based on what can be described as a 'one-sided story exclusively of European design.' Yet, Wight (1977: 123) argued that Alexandrowicz grossly underestimated the fact that most 'Europeans approached the non-Christian world with a different set of assumptions from those with which they approached one another.' He also noted pertinently that Alexandrowicz exaggerates considerably the extent to which there was a communion of interests, spirit and values between Europeans and non-Europeans, one sufficient to argue that there was a universal international society based on a natural law of nations. One thing is to note that the likes of Vitoria and Grotius did envision the existence of such universal and non-discriminatory international society of mankind. Another is to argue that the behaviour of European imperialists and colonialists and the relations between Europeans and non-Europeans were informed decisively by such a conception. In this regard, Jackson (1990: 57-58) notes that it is unlikely 'something resembling Grotius' law of nations was observed routinely in relations between European merchants and non-European rulers', given some aspects such as the huge distances in the age of sail and the acute differences between European and non-European societies. Also in response to Alexandrowicz, Bull dismissed the notion of a universal natural law as hypothetical. Bull also argued that there was no such thing as an international society constituted by Europeans and non-Europeans (Keene, 2002: 26-27). As Bull (1984b: 117) put it, 'they were not united by a perception of common interests, nor by a structure of generally agreed rules setting out their rights and duties in relation to one another, nor did they cooperate in the working of common international institutions.'

The characterisation, made by Gong (1984: 4-6), of the standard of civilisation as expressed in nineteenth century European international law as a product of older practices, is in accordance with what discussed so far. In his view, such division is closely related with the definitive replacement, in the second half of the eighteenth century, of the idea that international society was distinctively Christian, by a secular notion that international society was

composed by and confined to civilised states, i.e. of European civilisation. In this logic, 'the previously implicit standard of 'civilisation' espoused by this society took on an increasingly explicit juridical character.' What Gong fails to recognise is that the dichotomies established by the notion of superior European civilised values, manners and customs was a feature already present in the sixteenth and seventeenth centuries. And the same holds for the role of those dichotomies in the imperial and colonial expansion of international society during that period. Nevertheless, Gong's (1984: 5) point that the 'implicit standard of civilisation' emerged in eighteenth century international society is not a completely misleading assumption, in the sense that this period did mark the consolidation of international society and of the idea that international society was the end point and the realm of civilisation.

Thus, in the nineteenth century, propelled by the Europeans' eagerness to systematise and organise all realms of public activity, the standard of civilisation became a concept with an explicit juridical character. Far from *causing* a division of the world between civilised and non-civilised nations and the related discriminatory practices, it expressed such longstanding division in the practices of international society. In particular, the standard emerged as the Europeans' solution for two issues closely linked with the European imperial expansion. One was how to determine which countries were entitled to recognition and legal personality, and consequently to membership of international society. In the perspective of European legal positivists, Russia, Japan, and the Ottoman Empire's membership of international society, as well as the independence of the United States and of South American nations added to the significance of considering the legal borders of international society. The standard of civilisation limited the recognition in international law and consequently to membership in international society to states regarded as civilised, and accorded 'semi-civilised' or 'uncivilised' status to those that qualified only to partial membership or were not qualified at all. As other Europeans had done for centuries, a number of international lawyers (at the time referred to as publicists) divided the nations of the world into the categories of civilised, barbarous, and savages, reflecting legal capacity and personality. The other purpose was the perceived need to regulate the relations between European

and non-Europeans in the areas where Europeans had acquire territories. The standard of civilisation was constantly updated by treaties and international lawyers to include new requirements. These included the guarantee of basic rights such as those of property and freedom of religion, travel, and commerce; the existence of a political bureaucracy that could run efficiently the state apparatus; capacity to organise self-defence; adherence to the laws of war; the existence of domestic juridical system; or the acceptance that certain behaviours such as polygamy and slavery were uncivilised practices to be banned (Gong, 1984: 4-15, 24).

While it is misleading to see international law as the cause of European discriminatory views and behaviour towards non-Europeans, it surely provided legal backing for such practices. As Bull (1984d: vii-viii) notes, it is evident that the standard of civilisation worked as a legitimating tool of Europeans 'for denying equal rights to the political communities of Asia, Africa, and Oceania, whose fate in that era was either to become colonies of the European imperial powers or to be assigned a subordinate or second class form of independence.' The subjectivity and political nature of these criteria are obvious. For most non-Europeans, the standard represented a humiliating imposition (Gong, 1984: 7). It required that European standards be imposed on the non-Europeans, or that the latter adopt the former's standards as their own (Keal: 1995: 192).

The standard of civilisation also defined a code of expected behaviour within international society, of obligations which 'civilised states' ought to observe, as expressed at the time by humanitarian sentiments, the notion of *noblesse oblige*, or the later 'sacred trust of civilisation' (Gong, 1984: 4-12, 24, 76-81). Jules Hermand, a French advocate of colonialism, noted the necessity to 'accept as a principle and point of departure the fact that there is a hierarchy of races and civilisations, and that we belong to the superior race and civilisation, still recognizing that while superiority confers rights, it imposes strict obligations in return.' He believed that 'the basic legitimation of conquest over native peoples is the conviction of our superiority, not merely our mechanical, economic, and military superiority, but our moral superiority. Our dignity rests on that quality, and it underlies our right to direct the rest of humanity. Material power is nothing but a means to

that end' (Said, 1993: 10). Prominent examples of state practice in the late eighteenth-early nineteenth century according to the standard of civilisation are the intervention of the concert of 'civilised' powers in the Boxer rebellion in 1900 on behalf of 'civilised society', and the Hague 1899 and 1907 conferences of the 'civilised' countries with the purpose of among other things to codify the rules of 'civilised warfare' (Gong, 1984: 5). Another interesting case is that of Japan. Initially forced by the US to open its ports to Western merchants, 'uncivilised' Japan gradually gained 'civilised' status by following the norms of state sovereignty and of European diplomacy. As with Russia, Japan also came to justify its imperial expansion with the civilising mission (Suzuki, 2005: 137-140).

The thesis of Alexandrowicz has inspired other scholars to investigate the relationship between international law and European imperialism and colonialism in the nineteenth century. Anghie (2005) explores how the colonial encounter was crucial in the development of the discipline of international law, together with the preoccupation of order among sovereign states. Anghie's thesis can be summarised as follows. In response to the critique of the English jurist John Austin that international law could not be considered law at all, nineteenth-century positivist jurists (including James Lorimer, W. E. Hall, John Westlake, Thomas Lawrence, and Henry Wheaton) attempted to confer a 'scientific' character to the discipline (Anghie, 2005: 33-54). Austin's premise was that law was set by sovereign authority. Given the absence of an international authority to enforce and regulate the conduct of sovereign states, international law did not have the status of law (Cavallar, 2002: 371). At the time when the imperial and colonial expansion of international society was at its peak, with almost all territories of Asia, Africa, and the Pacific in the process of being colonised, positivism replaced naturalism as the 'principal jurisprudential technique of the discipline of international law.' Positivist jurists 'sought to reconstruct the entire system of international law as a creation of sovereign will.' The only sovereign will they recognised was that of the sovereign states that belong to international society, whose practice they considered as the only source of international law. Yet, 'through their racial and cultural prejudices,' these jurists also contributed to the universalisation of international law. International law, i.e. European law, applied universally but

unequally, playing a role in the subjugation of all uncivilised political communities that were not recognised as members of international society (Anghie, 2005: 33-54). As Anghie (2005: 67-72) rightly explains, a doctrine of assimilation was also developed, so as to bring non-European peoples into the realm of international law. Four 'techniques' were established in this regard: (a) unequal treaties, often signed under the use of force or the threat of the use of force, which often ceded sovereignty to Europeans in matters such as trade; (b) colonisation not only by conquest but also by a treaty of cession or by annexation; (c) the already referred civilised requirements that non-European states had to meet; and (d) protectorate agreements.

In Anghie's (4-5, 9-10, 38) interpretation of the work of nineteenth century international lawyers, non-European political communities were 'deemed by jurists to be lacking in sovereignty – or else, at best only partially sovereign'. They 'established' and 'maintained' the dichotomy between civilised and uncivilised 'while refining and elaborating their understanding of each of these terms.' They 'exclude[d] the non-European world as backward and uncivilised' and 'elaborate[d]' a legal framework that justified colonisation as a means of accomplishing the civilising mission.' 'They were engaged in an ongoing struggle to define, subordinate and exclude the native,' and they presented the natives as 'suitable objects for conquest' and legitimised 'the most extreme violence against them, all in the furtherance of the civilising mission.' In this logic, positivist jurists or international lawyers were instrumental in the expansion of international society. They provided the crucial legal instruments through which the members of international society subjugated non-European nations, and at the same time forced them to adopt European rules, customs and values.

This narrow focus on nineteenth century international legal positivist developments provides an idea of a group of all-powerful international lawyers playing a key role in the imperial and colonial expansion of international society. Surely the standard of civilisation worked as a legitimating element in this process, one that was quite discriminatory and humiliating for those accorded the status of uncivilised or semi-civilised. But those non-European political communities excluded in juridical terms from

the realm of civilisation, had long been excluded from by the practices of international society, and did not enjoy of equal rights before the positivist turn. By conferring causation to international law, and disregarding how it reflects the prevailing morality of international society, Anghie ignores that these positivist international lawyers were in fact systematising a long established practice in international society. As Schwarzenberger (1955: 215-216) noted, beyond the more material aspect of the term civilised, i.e. meaning the criteria through which a certain group is considered to be civilised, it is prior ethics and morals that are behind the idea of civilisation.

Moreover, in their eagerness to accord an element of causality to positivist international law in the subjugation of non-European peoples, both Alexandrowicz and Anghie downplay or ignore considerably the role of material power. At least until the second-half of the eighteenth century, Europeans' confidence regarding their own superiority was limited. They had to coexist with powerful empires such as the Ming in China, the Persian under the Safavids, or the Islamic one in North India. A number of writers, thinkers, and travelers of that time, did not describe the Safavid, the Mughal, or the Chinese empires as susceptible of being conquered by Europeans, in both the material and moral aspects (Darwin, 2008: 51, 117-118). Invariably in the work of historians, the nineteenth century represents the height of European supremacy (Doyle, 1986: 109-113; Darwin, 2008: 15-17, 94-110), not only in terms of economic, technological (O'Brien, 1984) and military power (Howard, 1984), but in the capacity and means to project it over long-distances through railways, steamships, and a complex web of communications.

Another account of the role of international law as instrumental in the perpetuation of international inequality is the one offered by Simpson (2004). According to him, the Congress of Vienna represented the first crucial constitutional moment in the history of international society which institutionalised legalised hierarchies between states.⁵⁸ In particular, it established in international law two categories: (1) the Great Power status and the responsibilities in the management of international order associated with that status; and (2) the outlaw state, 'estranged' from and 'demonised' by international society on the basis of its 'moral characteristics or internal

politics.’ This does not mean that the norm of state sovereignty did not matter. Simpson (2004: 9, ix-xi) emphasises the ‘role of sovereign equality in establishing the originating ‘groundnorms’ of the international legal order’, and the concern of the Great Powers in ‘willing into existence new legal regimes in moments of constitutional crises’, invoking a community of interests/the interests of humanity, to ensure their actions were in accordance to international law. Most important for our purposes, Simpson (2004: 4) characterises this tradition of drawing legal distinctions between civilised and ‘exceedingly cruel, uncivilised, and outlaw states’ as ‘De Jure Praedae conception of international law.’ In his view, this tradition was inaugurated by Grotius in *De Jure Praedae*, which begins with the following words:

A situation has arisen that is truly novel and scarcely credible to foreign observers, namely: that those men who have been so long at war with the Spaniards... are debating as to whether or not, in a just war and with public authorisation, they can rightfully despoil an exceedingly cruel enemy.

Simpson argues that it was the recovery, in the nineteenth century, of Grotius’ distinction between civilised and uncivilised states that explains that distinction in the international legal order. This legacy of ‘legalised hegemony’ would, in his analysis, be a lasting one. In this respect, his argument is quite similar to Keene’s (2002) who, as discussed, sees the Grotian tradition as responsible for the division of the world in the late eighteenth-early nineteenth centuries according to two different conceptions of international order, one tolerant and egalitarian, the other hostile and discriminatory.

The previous chapter has shown how Grotius’ natural law of nations conception was a tolerant one, in the sense that it made no discriminatory distinction between the inner circle of Christian nations and the outer circle of non-European nations. On the contrary, Grotius argued that non-European individuals and political communities, regardless of their morals or religious beliefs, were rightfully entitled to property and to govern themselves in the way they saw fit. Simpson also ignores that the classification of political communities as morally inferior was long established practice in

international society. The previous dichotomy between civilised and barbarians/savages, was now in the process of being replaced by the spectrum civilisation/civilised states-uncivilised/backward political communities. Moreover, Simpson disregards an essential aspect of Grotius' work: that he was primarily concern with war and violence that characterised his era in Europe and beyond. The passage with which Grotius initiates the *Jure Praedae* is a reference not to the internal/moral characteristic of a state (Spain), but to its international conduct in the time of war. In fact, *De Jure Praedae* is essentially a book about justice and morality of war and in war. There are no discriminatory passages in it or distinctions between European civilised states and non-European uncivilised nations pertaining to their moral or internal characteristics. In this sense, *De Jure Praedae* is the natural precursor of Grotius' more famous *De Jure Belli ac Pacis*.

5.4 Concluding Remarks

The existence of the concepts of civilisation and civilised in the eighteenth century does not mark a significant departure from the previous history of international society, characterised by the civilising mission and the dichotomies civilised-barbarians/savages. The difference lies in the influence and preponderance of the noun civilisation in eighteenth century international society. In this sense, it can be argued that there is indeed a notion of change. In this period, the concept civilisation not only represented the civilising mission and the process away from barbarism/savagery and towards civility, but also the shared conscience that the European international society formed the realm of civilisation, the clear end point of the civilising process. In terms of wider context, it was also noted that the reification of the concept of civilisation in eighteenth century Europe coincides with the consolidation of international society. In relation to the claim that the preponderance of the concept is a product of the Enlightenment, it was argued that while such preponderance is indeed a feature of the Enlightenment *period*, and figured highly in the intellectual concerns of the major Enlightenment and liberal thinkers, their ideas regarding the topic are far from monolithic. By the lateeighteenth-early nineteenth century, however, the notion that the whole of mankind was, in its

various stages of progress, on the same path towards the end point of civility became an influential one. The appearance of the concept backward highlights precisely this notion of an on-going process where even the most savage and barbarian peoples could gradually be brought into the realm of civility/civilisation; they could be transformed in Europe's image. It implied, in all its paternalism and optimism in progress, that there was no uncivilised nation or backward peoples that could not be gradually changed and civilised; it embodied the opportunity for improvement of all mankind. It represented less a dichotomy, and more a spectrum. This also marks a certain departure from the previous notion of the civilising mission, in the sense that it denotes a greater concern with the fate of those being civilised. This, it should be emphasised, is very different from arguing that it proved beneficial for the latter. This duty and the optimism to carry it forward, it was argued, can be considered as the main legacy of the Enlightenment so far as the civilising mission is concerned.

The standard of civilisation in international law represents the systematisation of a long-standing practice in international society. Alexandrowicz's claim that the positivist turn in international law and the related standard of civilisation generated a division between civilised states and uncivilised nations and the related discriminatory and aggressive practices of the former over the latter is highly misleading. Gong's argument that a moral standard already existed in the practices of international society before it assumed an explicit juridical character is in line with what was discussed. The emergence of the standard of civilisation in international law as a result of the positivist turn has to be understood as an expression of wider changes in Europe's political and philosophical scene, which naturally reached the science of law as well. It is undeniable that: the criteria of the standard were highly political and discriminatory; it was influenced by the racist and ethnocentric views of Europeans; represented a humiliation for those that were classified as uncivilised or semi-civilised; and worked as a legitimating tool in the hands of European empires. However, it is misleading to see the standard as a powerful driver behind the expansion of international society. It simply marks the systematisation and codification of long-standing

practice in international society. In this regard, Anghie overemphasises considerably the role of positivist international lawyers as instrumental in the expansion of international society. The category of outlaw, uncivilised state, far from being an outcome of Grotius' conception of the law of nations as argued by Simpson, reflected the growing, shared conscience that international society was the realm of civilisation. What had previously been a dichotomy between the civilised and barbarians/savages peoples was increasingly replaced by a spectrum, with civilised states on one end and uncivilised and backward peoples and political communities on the other.

Chapter 6 - Backwardness and the Promise of Self-Government

I cannot forget that the natives are not represented amongst us, and that the decisions of the Conference will, nevertheless, have an extreme importance for them.

Edward Malet, British ambassador to the Berlin Conference (in Bain, 2003a: 11-12).

6.1 Introductory Remarks

This chapter looks at the idea of trusteeship in international society and the corresponding operationalisation of the norm in different moments of its history. It attempts to shed light on the nature of trusteeship, and to unravel what kind of motivations and ideological projects were behind what can be called the spirit of trusteeship. The aim is to understand how it relates to the perpetuation of the idea and category of defective polities in international society.

The first section discusses the re-emergence of the principle of trusteeship in the context of the British imperial presence in India, and considers the role of Edmund Burke in this regard. We then look at the Conference of Berlin (1884-1885), characterised in the literature as representing the internationalisation of the norm of trusteeship. The aim here is to understand the extent to which the idea of trusteeship and corresponding norm were present in the 'scramble for Africa.' According to Bain (2003a: 1-2, 14-17), this was a time when the 'justification of empire' relied on 'the benefit it conferred on the governed', as Europeans believed that they could 'improve the lives of the world's most destitute and oppressed people through direct intervention.' Thus, in Bain's analysis, the principle of trusteeship was not empty rhetoric, or merely a justification for the pursuit of other goals. It represented a true, influential motive behind the civilising mission.

The following two sections address the institutionalisation of the norm through the League of Nations Mandates System, and the United Nations (UN) Trusteeship System, the successor arrangement of the Mandates System. Regarding the former, we look in particular at the role of two figures in the setting up of the Mandates System, Jan Christian Smuts and Leonard Woolf. The purpose of these sections is to address two, somewhat divergent perspectives regarding 'the spirit' of trusteeship. One, subscribed to by Anghie (2005: 96-97, 137-156), is that throughout the nineteenth and twentieth centuries, the 'humanitarian rhetoric' of trusteeship worked as a 'refined' justification for colonialism, in a time when the administration of empire was under more scrutiny than before. With the institutionalisation of trusteeship in the League of Nations Mandates System, 'international law built the foundations for and legitimised the next stage of the civilising mission.' That this link of 'power and responsibility', based on 'what it could achieve for others' i.e. the backward peoples, provided 'enlightened empire' with a powerful justification is a view also shared by Bain (2003a: 1-2, 14-17). However, in his perspective, by rendering the backward peoples subjects of international law, the norm of trusteeship also provided the backward protection against exploitation and tyranny. Similar points are made in relation to the UN Trusteeship System. Mazower (2009: 8) describes the system as a legitimating tool of the Great Powers, one that institutionalised the latter's domineering views on how 'the world's weak and poor should be governed.' Bain (2006: 196) acknowledges the existence of important security and strategic interests of the Great Powers, but argues that the institutionalised norm of trusteeship did not prioritise the security and strategic interests of the Great powers in detriment of the 'well-being of dependent peoples.'

6.2 The Re-emergence of an Idea

The idea and principle of trusteeship was present in the debates among Spanish scholastics and intellectuals in the context of the Spanish conquest and colonisation of the Americas. The principle re-emerged two centuries later in the East Indies joining, according to Bain (2003a: 17), 'the best

traditions of enlightened empire and the worst traditions of empire seduced by theories of racial and neo-Darwinian superiority.' It gained form in the territories of the British East India Company, an enterprise which Edmund Burke would denounce as 'a state in disguise of a merchant.' The presence of the company in the East Indies dates back to the early seventeenth century. Initially, it relied on the permissions obtained from the Mughal Emperor to established trading posts. The words of Sir Thomas Roe in 1616 illustrate the policy approach of the Company: 'Let this be received as a rule that if you will profit, seek it at sea, and in quiet trade; for without controversy it is an error to affect garrisons and land wars in India.' At this stage, the company's directors believed that commerce and war and conquest were incompatible (Bain, 2003a: 27-28). Since its arrival in India, the company maintained naval and military forces designed for protection and to scare potential competitors, as well as intimidate less receptive local rulers. Nevertheless, in these initial stages the presence of the company was marked by peaceful trade rather than conquest and war. It was based on permissions granted by the Mughal Emperor and, generally speaking, local rulers did welcome the wealth generated by commerce with Europeans (Marshall, 2005: 53). According to Bain (2003a: 27-28), things began to change when 'the Mughal Empire entered into a long period of decline' in the last quarter of the seventeenth century. This led the Company to adopt a different approach, no longer based on non-intervention.

As discussed in the previous chapter, the notion of decline of non-European empires was an important legitimating element of the imperial expansion of the members of international society. Surely the spectrum civilised-uncivilised/semi-civilised/backward, influenced significantly this view of decline of non-European political communities. Yet, to comprehend the change of policy of the British East India Company, one cannot ignore the events that affected the Mughal Empire and led to its collapse. It is consensual not only among historians of European empires (e.g. Doyle, 1986: 114; Marshal, 2005: 53-57, 121-136; Darwin, 2008: 175-179), but among those of the Mughal Empire (e.g. Muzaffar, 1993; Richard, 1995: 1-2; Alam and Subrahmanyam, 1998: 59), that the period from the late

seventeenth to the mid-eighteenth century in the territories of the latter was characterised by war, popular upheaval, rebellion and dismemberment.⁵⁹

Among the factors associated in the literature with this dismemberment, it remains difficult to separate between what are considered causes and consequences. These include: (a) constant war; (b) the rebellion of important chiefs; (c) Emperor Aurangzeb's religious intolerance towards Hindus (Bain, 2003a: 28); (c) the Iranian, Afghan, and Maratha invasions; (d) increasing assertions of autonomy from the Empire's tributaries; and (e) the British, French, and Dutch rivalry in the region and their involvement in the conflicts (Darwin, 2008: 163, 176-179). Despite the increasingly belligerent and aggressive presence of Europeans, it would be wrong to assume that this was the main reason for the collapse of the Mughal Empire. Nevertheless, it is evident that this period of instability provided the Company with the justification to change policy.

The Mughal incapacity to defend and hold on to the territories it controlled was faced as a threat by the British, given the vulnerability of the company's positions to war and the wills of kings of new emerging kingdoms. However, it also represented an opportunity. In 1677, the Governor of Bombay, Gerald Aungier, suggested to the company's Court of Directors that 'the times now require you to manage your general commerce with your sword in your hands.' In turn, the Court of Directors instructed the company's agents to 'maintain and defend against all persons, and govern by our own laws, without any appeal to any prince or potentate whatsoever, except our Sovereign Lord the King.' A decade later, Governor Sir Josiah Child announced to the company's employers the need 'to establish such a politie of civil and military power, and create and secure such a large revenue to maintain both as may be the foundation of a large, well-grounded, sure English dominion for all time to come.' This strategy was formalised in 1689 by the Charter granted by King William III. It claimed the dominion of the British possessions in India and authorised the Company to 'raise, train, and muster, such Military Forces as shall or may be necessary for the Defence' of the company's positions. Throughout the first half of the eighteenth century, the company was able to install their preferred candidates for disputed thrones of regional kingdoms; fought successively European (particularly

French) and local enemies alike; strengthened its own armies composed of British and local soldiers; and deposed local leaders who did not favour the company's trading interests (Bain, 2003a: 28-31).

An important step in this process of transformation from peaceful trading positions to an aggressive and belligerent colonial empire was the grant of the *diwani*, by Emperor Shah Alam, in August 1765. It gave direct administrative responsibility to the company of the whole province of Bengal, assuming control over revenue resources of Bengal as well as of Bihar and Orissa, but also the obligation to defend the territory and maintain order. There was great surprise among the British public regarding this event, although there were little doubts that sovereignty in the East Indies should belong to Britain. The question that was asked was whether it should belong to the British state or to the company (Marshall, 2005: 135-155). Robert Clive, a prominent Company official, remarked in the occasion that 'so large a sovereignty may possibly be an object too extensive for a mercantile Company.' This point marks the beginning of a novel activity for the company, the government of large swaths of territory and huge populations. The practical result of the company's rule was disastrous, culminating in a famine that struck the Bengali countryside, killing millions (Bain, 2003a: 31-32).

Subsequently, a great controversy arose in Britain, with widespread accusations of complete misrule. The North Regulating Act of 1773 passed by the British Parliament aimed to prescribe some reforms. It declared that, unless authorised to do so, 'it shall not be lawful' for the company 'to make any orders for commencing hostilities, or declaring or making war, against any Indian princes or powers.' The opposition to the Act was not based on a contestation of the argument of misrule, but on the grounds that it was contrary to the chartered rights of the company and an attack of the freedom of property and private enterprise. Burke was among those that voted against the Act. This attempt to define standards of conduct that should guide the company's actions in India proved mostly fruitless, and its participation in a number of controversial wars gave rise to harsher and more widespread critiques. As Burke remarked, 'in its present state, the government of the East India Company is absolutely incorrigible.' He was appointed Chairman

of the Select Committee of the House of Commons on the Affairs of India. The Committee was in charge of investigating the allegations and accusations of misrule. Its report's conclusions represented a shattering accusation against the Company. The report mentioned that the reforms suggested by the North Act had been completely ignored, and recommended that the company should be subordinated to the strict supervision of Parliament. Another of the Committee's recommendations was that, in order to address the abuses and misrule in India, 'the prosperity of the native must be previously secured, before any profit from them whatsoever is attempted.' In a speech in support to Charles Fox's motion to suppress the company's dominion in India, Burke argued that the British right of dominion was dependent on the welfare and prosperity of the natives, and the respect for the natural rights of man. He believed that this 'trust' had been hopelessly damaged, called for the end of the company's dominion and argued that the Parliament should be in charge of the supervision of developments in India. As he put it, 'self-derived rights, or grants for the mere private benefit of the holders, ... are all in the strictest sense a trust: and it is the very essence of every trust to be rendered accountable, and even totally to cease, when it substantially varies from the purposes for which alone it could have a lawful existence' (Bain, 2003a: 32-35).

The aversion to despotic and centralised power that led Burke to vote against the North Act was the same that made him one of the fiercest critiques of the company's rule. He was conservative and imperialist, but alerted to the need to respect local customs and traditions instead of the imposition of British/European civilisation. As he put it, 'I never was wild enough to conceive, that one method would serve for the whole. ... I was persuaded that government was a practical thing, made for the happiness of mankind, and not to furnish out a spectacle of uniformity, to gratify the schemes of visionary politicians.' His model of empire and colonial policy was 'an aggregate of many states under one common head', where the 'subordinate parts have many local privileges and immunities.' He emphasised the existence of moral duties and obligations, especially the need to 'observe the laws, rights, usages and customs of the natives, and to pursue their benefit in all things.' Burke's interpretation of the imperial

problems in India and America was the same – ‘the arrogance and carelessness of the metropolitan power.’ In his view, the company’s right to rule was not an unlimited one, it rested on trust; the company had to be held accountable. As he argued, to allow such breaches to go unpunished would ‘break the faith’ and the ‘indispensable oath’ to which the British rule in India was bound, ‘by the eternal frame and constitution of things, to the whole human race.’ Burke was a pragmatist. His argument was not only a moral one. He was concerned with the viability of empire, and it was also this concern that led him to call for the respect of the traditions, customs, and manners of the native inhabitants of India (Welsh, 1995: 58-65).

Although Burke was unsuccessful in his attempt to revoke the company’s chartered rights, his and others’ efforts culminated in the passage of the India Act of 1784. It did not alter the company’s commercial rights, but it defined principles that should guide conduct, in order to ‘secure the happiness of the natives.’ In the words of the then Prime Minister William Pitt, the company’s rule ‘must chiefly depend on the establishment of the happiness of the inhabitants, and their being secured in a state of peace and tranquility’ (Bain, 2003a: 36-37). This controversy reached its climax with Burke’s move to impeach Warren Hastings, the Governor General of Bengal, in 1786. Burke’s accusations against Hastings were based on the moral corruption of his rule, which violated all principles of justice and moderation.⁶⁰ Burke attacked Hastings’ denial of the existence of the ‘law of nature and nations, the great and fundamental axioms on which every form of society was built.’ He highlighted the equality of European civilisation and the Indian people: ‘[the] sun, in his beneficent progress round the world, does not behold a more glorious sight than that of men, separated from a remote people by the material bounds and barriers of nature, united by the bond of a social and moral community.’ As Welsh (1995: 65-66) explains, Burke believed that the principles that should guide and apply to the British colonists in India were the ‘immutable principles of natural law.’

Overall, Burke’s defense of rule based on trusteeship was quite influential in shaping British policy in the East Indies. The principle that ‘all power which is set over man, and that all privilege claimed or exercised in exclusion of them, being wholly artificial, and for so much a derogation from

the natural equality of mankind at large, ought to be some way or other exercised ultimately for their benefit', did make its way into the most important British imperial debates of the time. Regarding the effects, these were visible at times but still limited. As Bain (2003a: 50) puts it, 'it would be an exaggeration to say that the East India Company governed British India according to a policy of trusteeship as such.' While there was some noticeable concern in the ground to follow the recommendations from the British Government, the imperial expansion often showed a striking disregard of those principles. The calls for respect, moderation, and accountability were eventually overshadowed by the dominant view of Indian inferiority. John Stuart Mill's famous history of India suggested that India had experienced no progress since its contacts with the Greeks and referred to its population as 'barbarous' (Bain, 2003a: 36-45). He described the government of dependencies whose population was not 'in a sufficiently advanced state to be fitted for representative government ... as legitimate as any other, if it is the one which in the existing state of civilisation of the subject people, most facilitates their transition to a higher state of improvement' (Robinson, 1965: 65). Quite in contrary, Burke believed that the natives of India needed protection from the predatory interests of European empires, not improvement (Bain, 2003a: 51-52).

These divergent views of Burke and Mill illustrate the existence of important differences between the principle of trusteeship and the civilising mission, differences which the literature about the topic has ignored or downplayed considerably. Bain (2003a: 50-51) does refer to Burke's belief that 'the people of India required protection rather than improvement.' In Bain's interpretation, Burke's position was that 'their need for protection stemmed, not from a self-incurred condition of ignorance that made them a danger to themselves and to others, but from the rapacity, corruption, and misrule of the Europeans that lorded over them.' However, Bain reads this essentially as an example of Burke's conservatism as opposed to others' (Mill included) more revolutionary liberalist aims of changing India's society according to progressive visions of social engineering.

Trusteeship as envisioned by Burke and by Vitoria for that matter was about trust between ruler(s) and ruled; protection of the natural rights of

native inhabitants and their ways of life from the wrongs and abuses of empire and the civilising mission; and the accountability of ruthless imperialists and colonists. Moreover, with Vitoria and later with Burke, the idea of trusteeship emerged as a reaction to unfolding events that, in their view, represented outrageous violations of universal natural rights. On the contrary, the mission to civilise was based on the inequality of men and the superiority of the civilised over the barbarians, savages, uncivilised or backward. It essentially represented the drive towards changing the inferior natives, whose political communities were seen as defective, according to civilisation's own standards. As we will see, however, this distinction between the rule based on trusteeship and the civilising mission would fade away.

6.3 Berlin and the Myth of Trusteeship

Until the late nineteenth century, European contact with most African political communities was very sporadic, and essentially limited to coastal and offshore areas. Some exceptions were the Portuguese incursions in Angola and Mozambique, the French penetration of Senegal, and British and Dutch settlements in the south of the continent. By the late eighteenth century, the project to eradicate slavery had gained widespread support in international society. A few colonial projects that were announced as humanitarian were the British settlement of freed slaves at Sierra Leone in 1787; the black state of Liberia developed from the settlement of freed slaves founded by the American Colonisation Society in 1821; and the French settlement of Libreville in 1849 (Bull, 1984a: 99, 101-102). In the nineteenth century, the movement in international society to eradicate slavery and slave trade was on full-steam. Military posts were established in Africa's coasts with the single purpose of fighting the slavery and the slave trade, practices which were not exclusively European. Yet, the African practices of slavery were used as a prominent example, including by Christian missionary societies, of why Africa and its native inhabitants needed to be civilised (Bain, 2003a: 53- 55). Thus, the civilising mission had found powerful legitimating grounds in these humanitarian, anti-slavery sentiments.

In 1876, King Leopold II of Belgium founded the International African Association in the Congo, of which one of the announced aims was to put an end to the slave trade.⁶¹ After a successful lobbying campaign by the monarch, the United States (US) soon recognised Leopold's Congo project. In an official statement, Secretary of State Frelinghuysen declared his country's sympathy 'with and approval of the humane and benevolent purposes of the International Association of the Congo, administering, as it does, the interests of the Free States there established, and will order the officers of the US, both on land and sea, to recognise the flag of the International African Association as the flag of a friendly Government' (Hochschild, 1998: 80-82).

Despite Leopold's 'humanitarian aspirations', as Bain (2003a: 68-69) sees it, the Congo Free State proved 'grossly ill-prepared to undertake its self-proclaimed mission of spreading civilisation in the heart of Africa.' He notes in particular the utopic nature of this project, given the hostility of native tribes, Leopold's lack of human and financial resources, and the huge territory in question. The image of Leopold in Europe at the time was indeed one of a philanthropic monarch. He spoke about the goals of ending the slave trade, the advancement of science, and the moral uplifting of the native inhabitants. Leopold might have been moved by the civilising mission; by the idea of transforming the Congo and the native inhabitants. As Leopold described in his welcoming speech by the occasion of the first Brussels Conference, his enterprise's purpose was 'to open to civilisation the only part of our globe which it has not yet penetrated, to pierce the darkness which hangs over entire peoples, is, I dare say, a crusade worthy of this century's progress' (Hochschild, 1998: 1, 42-44). Bain (2003a: 69) seems to believe that Leopold did have genuine humanitarian intentions beyond the mission to civilise and to place the backward natives in the path of progress. However, everything suggests that these aspirations could not have been but a façade destined to legitimise a personal land-grab of a huge territory. As John A. Hobson (1902: 190) noted with a tremendous amount of irony a few years later, Leopold claimed that the 'only program' for his government of the Congo was 'the moral and material regeneration of the country.'

The accounts of the history of the Congo Free State under Leopold's rule reveal one of the darkest chapters of European colonisation. Profit seems to have been the ultimate goal. The Belgium presence in the Congo was marked by the development of extractive industries (ivory, palm, rubber) and the establishment of a massive network of slavery (including women and children) to work on those industries. The Protestant and Catholic missionaries were used to control the population, many of which ended up in the *Force Publique*, trained to become Leopold's army. One of the main tasks of the force was to fight the slave trade dominated by the Arabs/Eastern Africans, who represented the greatest obstacle to the Congo Free State's system of extraction through slave labour. The result was a colossal human loss, estimated at the time in several million (Haskin, 2005: 1-2).⁶²

The colonisation of the Congo happened simultaneously with the colonial rivalry among most European powers, with an eye on or already in the process of establishing colonies in Africa and penetrating the interior of the continent (Bull, 1984a: 108-109). In particular, the attention of other European empires had turned to the prospect of finding major sources of raw materials (Hochschild, 1998: 27). In this context, the Conference of Berlin (1884-1885) was called by Bismarck initially to discuss the European (French, Belgium and Portuguese) presence in the Congo, and was attended by all European states (except Switzerland) plus Turkey and the US (Bull, 1984a: 109). According to Bain (2003a: 63), the conference, more commonly associated with the partition of Africa, 'effectively internationalised the idea of trusteeship.'⁶³

For Bain, Bismarck's opening discourse at the conference is 'more suggestive of trusteeship than territorial aggrandizement.' As the German Minister President put it

[i]n convoking the Conference, the Imperial Government was guided by the conviction that all the Governments invited share the wish to bring the native of Africa within the pale of civilisation by opening up the interior of that continent to commerce, by giving its inhabitants the means of instructing themselves, by encouraging missions and enterprises calculated to spread useful knowledge,

and by preparing the way for the suppression of slavery, and especially of the over-sea Traffic in blacks (in Bain 2003a: 63).

In this passage, there is no reference to the idea or concept of trust or trusteeship. Bain's view of the Berlin Conference as internationalising trusteeship is a crucial example of his and others' (e.g. Hall, 1948: 33) conflation of the norm of the civilising mission and the principle of trusteeship, often treating them as one and the same. Gong (1984: 76-77) also sees the Berlin Conference as a prominent instance where the standard of civilisation was reflected on the notion of the 'sacred trust of civilisation'. In his view, European empires were accountable on the basis of the obligations and duties towards the dependent peoples.

Yet, also in the General Act (1885) of the conference, there is no reference to the idea or concept of trust/trusteeship. In the 38 articles of the document, only Article VI makes reference to the protection of people, including not only natives but missionaries and travellers. In this regard, it does not conceal the far greater concern with the protection of European peoples and interests – 'Christian missionaries, scientists and explorers, with their followers, property and collections, shall likewise be the objects of especial protection.' It reads much more as a reference to the civilising of natives than to their protection, as the expression 'bringing home to them the blessings of civilisation' illustrates.

In Berlin, the goals of establishing peace and security were closely related with the Europeans' civilising mission in Africa. In this regard, Bain (2006: 191) notes that the first justification of trusteeship consisted in more than the promotion of 'the moral and material welfare of people who, on account of some infirmity, are incapable of directing their own affairs' to include recognition 'of the singular importance of security as a condition of life in society'. Thus, according to Bain, security constituted a vindicating and legitimising element for European rule in Africa, in a logic whereby the security of both occupied and occupier was described as a win-win game 'against the chronic war and disorders of all kinds.' The concern with peace and security is clearly stated in Article X of the General Act:

Being desirous, on the other hand, to obviate the misunderstanding and disputes which might in future arise from new acts of occupation (*prises de possession*) on the coast of Africa; and concerned, at the same time, as to the means of furthering the moral and material well-being of the native populations... In order to give a new guarantee of security to trade and industry, and to encourage, by the maintenance of peace, the development of civilisation in the countries mentioned in Article 1, and placed under the free trade system, the High Signatory Parties to the present Act, and those who shall hereafter adopt it, bind themselves to respect the neutrality of the territories, or portions of territories, belonging to the said countries, comprising therein the territorial waters, so long as the Powers which exercise or shall exercise the rights of sovereignty or Protectorate over those territories, using their option of proclaiming themselves neutral, shall fulfil the duties which neutrality requires.⁶⁴

However, security and peace were essentially a concern among the Conference participants as fundamental conditions for trade and the extraction of raw materials for European industry. The security of native populations was not a major concern in Berlin, nor was it paramount in European colonies in Africa in the aftermath of the Conference. As Jackson (2004: 35) notes, essential to this conference was the European empires' intention, of not only occupying but of 'placing on a firm foundation of civil administration certain war-torn territories.' This served as a powerful justification to the effective occupation of those territories.

Regarding the suppression of the slave trade, article IX of the General Act stated that 'each of the powers binds itself to employ all means at its disposal for putting an end to this trade and for punishing those who engage in it.' Bain (2006: 191) reads this resolve to abolish slavery and put an end to human trafficking as one more example of how the idea of trusteeship was present in the partition of Africa. Bain (2003a, 64-64) is right to note the international influence of the abolitionist movement. Nevertheless, as mentioned before, the African practices of slavery worked as a powerful argument for the Europeans' civilising mission in Africa. Moreover, the resolve to abolish the slave trade proved even more destructive to the independence of the African political communities than the slave trade itself, given that it was instrumental in the imposition of political control by

Europeans and to the booming in trade of many raw materials and primary goods (Bull, 1984a: 107-108).

The notion that the Berlin Conference internationalised trusteeship as a practice in international society amounts to a myth. Revealing enough, the representatives of the US did not ratify the General Act, as they considered it to be counter to their idea that the African native chiefs had rights in international law. As Bull (1984a: 110) explains, this idea was one that 'the Conference declined to endorse, while not explicitly repudiating it.' Trusteeship does not seem to have been a motive or important goal in Berlin. The language associated with the idea was absent in the conference. As Mayall (2005: 37, 41) rightly puts it, in Berlin the territories to be occupied were seen as 'legitimate prizes of war, and the loyalties – let alone the preferences – of the population were not a material consideration.' Moreover, as Bain (2003a: 19-21) recognises, although the Enlightenment ideas were hugely influential all over Europe, trusteeship in international society remained 'largely an Anglo-American tradition.' Essentially, the conference successfully minimised the tensions among the partitioning powers over conflicting claims in the Congo by setting up guidelines, and provided 'a collective sanctification or legitimisation of the partition process as a whole' (Bull, 1984a: 109-110).

Although absent in the context of the Berlin Conference, calls for accountability and the obligation to protect the natives against the European colonisers were still made in the occasion by the British Government, in relation to the controversy surrounding the Congo Free State. There was very little information in Europe and the US about Leopold's exploitation in the Congo, but the horrors in the region did not go unnoticed. Edmund Morel, a British-shipping company official working in Antwerp, became increasingly aware of the slave trade and the brutalities going on in Congo. He began to work as investigative journalist. He disclosed facts and figures, and became one of the most active voices against Leopold's project. Another detractor was Joseph Conrad, who wrote the famous novel *Heart of Darkness* (1902), based on his travelling in Congo. The words of Conrad's imagined narrator, Marlow, became famous: 'the conquest of the earth, which mostly means the taking it away from those who have a different complexion of slightly flatter

noses than ourselves is not a pretty thing when you look into it too much.’ Morel formed the popular Congo Reform Association, which exerted a growing pressure on Belgian, British, and American governments; edited the journal *West African Mail*; and published a huge number of pamphlets, books, newspaper articles, and shocking photographic essays. This generated a wave of support for his enterprise, not only within Britain with investigations by British officials, but also with the creation of affiliates of the Congo Reform Association in many other European countries. The issue also reached newspapers all over the world. Particularly in the US, it became a major controversy. Impressed by Morel’s enterprise, Mark Twain wrote the pamphlet ‘King Leopold’s Soliloquy’ (1905) in support of the cause. It is interesting to note that, despite his efforts to raise awareness about the situation in Congo, Morel was not anti-imperialist. He did not oppose British colonialism in Africa (Hochschild, 1998: 142-146, 185-195, 206-243).

The international pressure, particularly from Britain and the US, included not only accusations of misrule but calls for a change in administration. As a result, Leopold eventually ceded the Congo Free State, from this point known as the Belgian Congo, to the government of Belgium in 1908. Because the independent status of the Congo Free State had been recognised in a series of international agreements, the British government declared that ‘the Belgian Government is under treaty obligations in regard to their treatment of the natives of the Congo.’ It also warned that ‘His Majesty’s Government’ would ‘not recognise the annexation until they are satisfied that these obligations are in a fair way to be fulfilled.’ It proposed a comprehensive program of reform for Congo, including land reform, and the destruction of the system of taxation and forced labour imposed on the natives. Britain recognised the annexation of Congo by the Belgium government, after the latter declared that its rule would aim at achieving ‘an immediate amelioration in the moral and material conditions of existence of the inhabitants of the Congo, and the extension, as rapidly as possible, of a system of economic freedom to the different regions of the vast country’ (Bain, 2003a: 71-74).

The British-led international pressure does illustrate the presence of the principle of trusteeship, with calls for the protection of natives and their

rights, while noting the existence of obligations and accountability of Belgian colonial authorities. To a limited extent, some steps were taken by the Belgian Government to correct the situation, but hundreds of thousands of natives continued to die as a result of the authorities' repression (Haskin, 2005: 2-3, 11-12). In 1924, the colonial authorities undertook a population census in Congo, due to a serious concern about the shortage of workers. 'We run the risk of someday seeing our native population collapse and disappear', declared the permanent committee of the National Colonial Congress of Belgium, 'so that we will find ourselves confronted with a kind of desert' (Hochschild, 1998: 233).

6.4 The Road to Versailles

The principle of trusteeship was an Anglo-American one, and it would remain so up to its institutionalisation in the League of Nations Mandates System (Bain, 2003a: 19-21). In the late nineteenth-early twentieth centuries, as Louis (1999b: 7-8) puts it, 'the British Empire had two, evolving faces, one more despotic and repressive, the other moving towards representative government.' The historian J. R. Seeley observed that Britain could be despotic in Asia and democratic in Australia. Race still played a significant role in distinguishing between those political communities that were fit for self-government and the defective polities who were not, i.e. the backward peoples. According to Lord Milner, the leader of the movement to strengthen the British Empire and the champion of British 'race patriotism', there were 'two empires', one non-white and dependent, the other white and self-governing. Not coincidentally, by 1910, Canada, Australia, New Zealand and South Africa had all become self-governing (Louis, 1999b: 7-8). An IR study published in Britain reflected upon the relations between 'advanced and backward peoples,' i.e. 'the peoples of European origin' and 'the peoples of non-European origin', a problem which 'has always been one of the gravest that has presented itself to mankind.' 'That this difference is one of quality and not merely of kind,' the author argued, 'is one of the most fundamental facts in human history' (Kerr, 1916: 141-142).

In this period, the debate about empire in Britain was particularly intense. The Boer War in South Africa generated a wave of criticism towards the empire. The conquest of the Dutch South African provinces as the outcome of this conflict was one desired by very few in the British government, i.e. expansion (Wilson, 2003: 25). It generated worries about the possible development of a more aggressive and profit-driven form of empire (Owen, 1999: 188-189). Britain lost over 10,000 men and, as Wilson explains (2003: 25), 'only avoided defeat through a policy that combined military ruthlessness with the isolation of the civilian population in concentration camps.' In *Imperialism: A Study*, the economist John A. Hobson (1902: 3) made the case that imperialism, together with nationalism, internationalism, and colonialism, 'demand[ed] the closest vigilance of students of modern politics.' His interpretation of Europe's expansion into tropical Africa as motivated by profit gave rise, Louis (1999b:19-20) argues, to a widespread misinterpretation of the South African or Boer War as a 'capitalist plot.' Hobson's work would influence important theories of imperialism in the twentieth century, including those of Lenin and Rosa Luxemburg. There were also other, more conservative and romantic visions of empire, as Joseph Chamberlain's – Secretary of State for the Colonies between 1895 and 1903 – programme of 'constructive imperialism' (Owen, 1999: 188-189). Nevertheless, as Louis (1999b: 3, 5) explains, in Britain's Edwardian era, a considerable consensus had formed that the purpose of imperialism 'no longer ought to be territorial expansion but the consolidation and greater unification of an already massive empire.'⁶⁵

The civilising mission had been part and parcel of United States' imperial policy since the age of Thomas Jefferson. Beyond the appalling wars of extermination of the savages of North America, the US developed a tradition of predatory intervention in the affairs of nations in Central America, the Caribbean, and the Pacific, based on the idea that the latter were incapable not only of self-government but of maintaining free governments. As Jefferson wrote in a letter to de Lafayette in 1813, 'I join you sincerely, my friend in wishes for the emancipation of South America. That they will be liberated from foreign subjection I have little doubt. But the result of my enquiries does not authorise me to hope they are capable of maintaining a

free government' (Westad, 2005: 8-25). The 1904 'Roosevelt Corollary' to the Monroe Doctrine asserted the right to intervene in any country in the Western Hemisphere suffering from 'chronic wrongdoing, or an impotence which results in a general loosening of the ties of civilised society.' Based on these premises, and driven by a range of political and economic interests (Coatsworth, 2010: 202), the overthrow of foreign governments remained a practice of the US in Central America until the 1920s (Kinzer, 2006: 9-64, 83-108). As Coatsworth (2010: 202) notes, it was the rising discontent of Central American nations with this constant coercive interference in their affairs that led the US to announce a 'Good Neighbour' policy towards the region.

Before the end of World War I, American President Woodrow Wilson declared, in the context of the formulation of his fourteen points, that 'every people has a right to choose the sovereignty under which they shall live', and that 'the small states of the world have a right to enjoy the same respect for their sovereignty and for their territorial integrity that great and powerful nations expect and insist upon' (Schmidt, 1998: 196). For Wilson, self-determination was the only mechanism through which stable states could be created. Yet the application of this principle of self-determination was as selective as Wilson's political ancestors criteria regarding the nations rightly entitled to liberty. His fear of chaos and instability led him to be sceptic about the benefits of self-determination of numerous colonies. As Westad (2005: 16) explains, 'he saw the European civilising mission as an ultimate failure that consequently had created potential hotbeds of chaos and anarchy' and thus, his reasoning went, 'real independence for the colonies would only lead to more instability and suffering.'

The old dream of a system to stop war was born again in full strength at the end of World War I. To avoid the repetition of such tragedy, the intermittent conference system characterised by the balance of power would have to be replaced by another, more formal arrangement (Northedge, 1986: 25). Simultaneously, the question of what to do with the colonies of Germany and the former territories of the Ottoman Empire assumed the utmost importance. Between 1919 and 1923, a series of conferences organised by the victors of the war discussed the status and future of some of the dependent peoples. Produced in these conferences were the Covenant of

the League of Nations, the Peace Treaties which ceded the ex-enemy territories to the Principal Allied and Associated Powers, and a series of decisions to be made by the Allied Powers. These included: (a) which ex-enemy territories were to become mandates; (b) which territories were to be left outside the mandates system; and (c) the terms of the mandates (Duncan, 1948: 29-30).⁶⁶

According to Anghie (2005: 96-97, 137-158), the Mandates System and the humanitarian sentiments of trusteeship worked as a 'refined' justification for colonialism, in a time when the administration of empire was under more scrutiny than before. Thus, 'international law built the foundations for and legitimised the next stage of the civilising mission.' This next stage aimed essentially at economic development, whereby the tasks of the mandatory powers was no longer to exploit but rather to civilise the natives, and transform their societies through an array of legal and administrative techniques. In Anghie's perspective, this is illustrated by Lord Lugard's 'dual mandate', where the basic function of the colony was seen in economic terms. In Lugard's words, '[t]he democracies of to-day claim the right to work, and the satisfaction of that claim is impossible without the raw materials of the tropics on the one hand and their markets on the other.' In *The Dual Mandate in British Tropical Africa* (1921), Lugard put forward essentially the same idea that Chamberlain popularised two decades earlier on the economic potential of vast tropical estates (Louis, 1999b: 21). Bain (2003a: 1-2, 14-17) agrees that this link of 'power and responsibility', based on 'what it could achieve for others' i.e. the backward peoples/nations, provided 'enlightened empire' with a powerful justification. However, Bain (2003a: 107) argues that the mandates system, by rendering intentionally the backward peoples subjects of international law, 'afforded them protection against exploitation and tyranny.'

The Mandates System reflected essentially two compromises. One was between Wilson's ideal of no annexations and the need to avoid the potential chaos of nations given independence without, leaders at the time thought, being ready (Macaulay, 1937: 10). As Hall (1948: 30-31) explains, instead of two other alternatives on the table – annexation or direct international administration – the mandates system was chosen as a solution

that was supposed to be temporary in character, and would come to an end once the various mandated territories were able to 'stand by themselves.' The other compromise was one between traditional pro-empire motivations and another, more complex set of aspirations that aimed to reform and eventually dismantle the existing empires.

The debates and projects about the future organisation date back to the early war years, among private individuals and organisations in the Anglo-Saxon world. The centrality of Woodrow Wilson in the creation of the League is undisputable. Yet, he never took the lead in framing detailed proposals for the organisation (Northedge, 1986: 26-27). This is also true regarding the Mandates System, about which he drew heavily on ideas, plans and drafts of other personalities. As Wilson (2003: 54) explains, 'many plans for the future organisation were debated both officially and unofficially at the time, and no single one of these plans proved decisive in building the intellectual foundations of the Covenant of the League.' Nevertheless, the ideas of two individuals, Jan Christian Smuts and Leonard Woolf, influenced strongly the formation of the League and the creation of the Mandates System. There is no better illustration of the sort of compromise agreement that the mandates system represents than the comparison between their motivations and ideological backgrounds.⁶⁷

Smuts was the future South African premier, architect of white settler nationalism, and member of the Imperial War Cabinet (Mazower, 2009: 30-31).⁶⁸ Smuts (1918: 14) shared Woodrow Wilson's concerns about how to achieve a lasting peace, 'founded in human ideals, in principles of freedom and equality, and in institutions which will for the future guarantee those principles against wanton assault', as he wrote in *The League of Nations: A Practical Suggestion*. He also feared that the premature independence of the former German and Turkish territories would only lead to more instability and suffering. But Smuts agenda went beyond that.

For Smuts, self-determination implied granting powers of self-government and autonomy according to the degree to which the native peoples were prepared to use them properly (Bain, 2003a: 91-92). Smuts (1918: 15) saw these colonies as 'inhabited by barbarians, who not only cannot possibly govern themselves, but to whom it would be impracticable to

apply any ideas of political self-determination in the European sense.’ Regarding the former Turkish territories, Smuts (1918: 16) wrote that there was ‘a great deal of variation among them’ in what concerned their suitability for self-government. Smuts had a plan for the German territories of East Africa, related with the long-held dream of establishing an uninterrupted land route connecting Egypt with the Cape of Africa. As talks about the territorial settlements were already under way, he expressed the hope that it would ‘be borne in mind that East Africa gives us this through land communication from one end of the Continent to the other, but that East Africa also ensures to us the safety of the sea route around the Cape and the sea route through the Red Sea to the East’ (Bain, 2003a: 80).

Not only was Smuts a fervent supporter of the idea of international organisation (Northedge, 1986: 35), he was in fact convinced that the future international organisation could become instrumental in ensuring the continuation of global white leadership (Mazower, 2009: 9-21). He was a believer of white rule over Africa, and thought that The Union of South Africa should remain, as Mazower (2009: 21) puts it, ‘within the safety of the empire’s embrace’, not only for South Africa’s sake, but for the continuation of the civilising mission in the ‘Dark Continent.’ Yet Smuts was not a supporter of the League of Nations as direct administrator of any territory (Bain, 2003a: 92). In his view, ‘the only successful administration of undeveloped or subject peoples has been carried on by States with long experience for the purpose and staffs whose training and singleness of mind fit them for so difficult and special a task’. Thus, Smuts (1918: 19-21) final recommendation regarding this issue was the following:

It shall be lawful for the League of Nations to delegate its authority, control, or administration in respect of any people or territory to some other State whom it may appoint as its agent or mandatary, but that wherever possible the agent or mandatary so appointed shall be nominated or approved by the autonomous people or territory.

The approval by the autonomous people or territory never materialised. His hope was that, by assuming towards the League of Nations and the Permanent Mandates Commission certain obligations – that he thought were

already being voluntarily and spontaneously fulfilled in neighbouring British colonies – in the mandated territories, the reproach of ‘exploitation’ would be removed (Macaulay, 1937: 190).

Woodrow Wilson admired Smuts plan, which he partly adopted in a modified form. Ultimately, Smuts influence in Article 22 of the Covenant that spelled out the mandatory system for Germany’s and the non-Turkish territories of the former Ottoman Empire was quite evident (Northedge, 1986: 35-37). Lord Robert Cecil mocked President Wilson’s second draft, saying that it looked like ‘Smuts and Phillimore combined, with practically no new ideas in it’. Yet, a fundamental difference was that Wilson’s draft extended the applicability of the mandates idea to the German colonies (Bain, 2003a: 93).

That the Mandates System would become one more method of ‘soothing to sleep the unquiet conscience of just nations and just men’ was what Leonard Woolf feared. Woolf was a former British colonial civil servant, a Fabian socialist, and an important figure of the Bloomsbury circle. For him empire, as well as the power vacuum that its dissolution would leave behind, were potentially as disastrous a threat to mankind as Great Power war. As he wrote in his autobiography:

The dissolution of the empires of European states in Asia and Africa which seemed to me inevitable would cause as much misery to the world as war unless the Governments of the great imperial powers recognised the inevitability, and deliberately worked for an orderly transference of power to their native populations, educated for self-government by their rulers (in Wilson, 2003: 83).

Woolf explored the effects of economic imperialism, which he saw as ‘almost wholly evil’, bad for both the colonised and colonial powers. For Woolf, behind the evils of economic imperialism was the white settler rather than the European state. The only way to prevent more useless violence, war and further enslavement of the native peoples, was a responsible colonial administration that, through a genuine commitment, would prepare the backward peoples for self-government. However, this possibility represented a dilemma for Woolf. On the one hand, the modern European state was an

instrument of exploitation controlled by ideas and beliefs of economic imperialism. On the other, the immediate withdrawal of the European state from Africa would most likely make things worse, as it would hand over the future of the native peoples to 'the more cruel exploitation of irresponsible white men.' The solution to this dilemma was a period of transition during which the European empires would secure a responsible transition of power to the natives. This was the basis of Woolf's vision for the Mandates System (Wilson, 2003: 83-85, 100-103).⁶⁹

In order to make the system work, Woolf argued, the League would have to become an effective force, and not a tool of the Great Powers. This would depend on: a) a precise definition of the obligations of the mandatory in a treaty; (b) the creation of a permanent commission with 'very considerable powers of enquiry and inspection'; (c) the guarantee of 'absolute equality of commercial opportunity, by means of free trade and the open door'; and (d) the ability of the League to revoke a mandate if the mandatory was found to be in breach of its obligations. The Mandates System, according to Woolf, was based on a denial to imperial powers of the sovereign rights over trust territories they had acquired, a claim that, according to him, had been upheld by 'Western civilisation and international law.' Woolf defended the extension of the Mandates System to all colonial territories, and not only to those that belonged to Germany and the Ottoman Empire (Wilson, 2003: 103-104).

The Woolf-Webb plan, based on Woolf's book *International Government* was certainly influential in the drafting of the actual Covenant, and there are great similarities between both documents. Particularly in respect to technical, social and economic function of the League, Woolf's influence was quite direct. Sydney Waterlow, a member of the League of Nations Section of the Foreign Office, was asked in the late 1918 to write the paper 'International Government under the League of Nations.' For this he drew extensively from Woolf's *International Government*, lifting 'almost verbatim', according to Waterlow himself, various sections. Much of Waterlow's paper was incorporated into the British Draft Covenant that later formed the basis of discussions between the British and US delegations at Versailles. Woolf's ideas also reached US officials, including Colonel House,

the delegate to the Peace Conference and a chief architect of the Covenant (Wilson, 2003: 4, 53-55).

Beyond Woolf's progressivism, quite radical at the time, he was still highly paternalistic (Wilson, 2003: 104-105) towards 'backward peoples', 'non-adult races', or 'primitive peoples', whom he believed were not ready for self-government (Wilson, 2008: 156). Yet he rejected this status had to do with colour or race, and placed much of the blame for this situation on Europeans, who had failed to introduce proper systems of education (Wilson, 2003: 104-105). In Woolf's case, there is a clear, progressive change in his thoughts regarding empire. This reflects the evolution of his public career and especially his intellectual path. From a 'very innocent, unconscious imperialist', as he would describe himself in his early-career years in Ceylon, he would become not only a 'disillusioned imperialist', but one of the most persistent and clearest voices of anti-imperialism (Wilson, 2008: 148. 154-157). As the British public opinion against imperialism rose in the 1920s and 1930s, Woolf's anti-imperialist ideas developed in parallel with his work as secretary of Labour Party's Advisory Committee on Imperial Questions, as well as his work for the New Fabian Research Bureau, and the Fabian Colonial Bureau. Together with Charles Buxton, he drafted the first policy document committing the Labour Party to the 'ultimate aim of a political system of self-government in Africa' (Wilson, 2003: 83-84).

Once in place, the League of Nations proceeded to clarify the terms of the mandates with the mandatory powers, to create the Permanent Mandates Commission, and to ultimately put all the parts of the Mandates System into full working order (Hall: 1948: 31-31). In order to promote international co-operation and to achieve international peace and security, article 22 of the Covenant referred:

To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilisation and that securities for the performance of this trust should be embodied in this Covenant.

This is illustrative of how the security concerns of the Great Powers, and the security of those polities seen as defective was included as part of the same problem and solution – the Mandates System. Sir Robert Boden noted about a debate in the 1919 Paris Conference regarding the future mandated territories, namely the question of who was to be the mandatory power stationed on their frontier, that ‘all the cases advanced rested upon a plea of security’ (Hall, 1948: 122). It should be noted that the League of Nations was involved in peacekeeping activities through peaceful means, but in relation to inter-state war, or eventual inter-state war. In the Mandates System, addressing potential conflicts within the backward territories was a task left exclusively for imperial and associated powers (James, 1999: 154-155).⁷⁰

Regarding the ‘best method of giving practical effect to this principle’ of trusteeship, Article 22 stated that

the tutelage of such peoples should be entrusted to advanced nations who by reason of their resources, their experience or their geographical position can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League. The character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances.

A prominent international lawyer, Sir John Fisher Williams, described Article 22 as doing three distinct things, ‘each of outstanding importance’: (1) it established firmly in the international sphere the ‘Anglo-Saxon conception of the trust... with what may be the beginnings of a system of enforcement’; (2) it attacked ‘the authoritarian doctrine of national sovereignty’; and (3) it attacked ‘the libertarian dogma of the equality of man’ (Hall, 1948: 45-46).

The mandates were paternalistically divided into three types, A, B and C. The type A referred to the peoples of the Middle East who would be able to ‘stand alone’ in a relatively short period of time. The type B mandates regarded the peoples of tropical Africa who would require an indefinite number of years or decades of economic and political advancement under European tutelage. The type C mandates meant that the ‘primitive’ peoples

of the Pacific, as well as the 'Hottentots' of South West Africa, would most likely remain European subjects for the foreseeable future (Louis, 1984: 201).⁷¹

Beyond Smuts' influence in setting up the terms of the system, many other elements indicate that the institutionalisation of trusteeship worked as legitimating tool at the service of imperialism and the territorial ambitions of the victors of World War I. Mazower (2009: 140) notes in this regard that the main ideology behind the League was an imperial one, in particular the British Empire's vision of global order. According to Owen (1999: 193-194), 'the reinvention of imperialism as trusteeship' was related 'with financial stringency at home in the aftermath of World War I, and a certain crisis of authority in the colonial territories.' Thus, the idea of trusteeship 'served to convert the anti-imperialists of one generation into the imperialists of the next.' Also, the mandates' idea was confined to the territories of the defeated powers, and was not extended to more than 118 colonies and dependencies in the world. As Hall (1984: 44) argues plausibly, this reveals the intention to divide and rule over the trust territories, while keeping all other colonial possessions away from international scrutiny. The very title of the Permanent Mandates Commission that supervised the Mandates System should, in Macaulay's (1937: 33) words, 'have convinced the world that there is nothing ephemeral about mandates which apply to backward races, especially those of Africa'. The duty of deciding on the mandated territories, defining their borders, and naming the mandatory powers belonged to the Allied Supreme Council, while the Council of the League was charged with the oversight of the administration of the territories once they had been allocated (Hall, 1948: 33 and 145-146).⁷²

The views of the dependent peoples were not represented in the main decisions of the League. Britain and France showed reluctance to implement a plan to ascertain, through an investigatory commission to the Middle East, the opinion of the native peoples in relation to the Mandates System. In response, Woodrow Wilson sent an American commission, whose report concluded that the natives demonstrated vigorous antipathy towards the system, which they saw as merely disguised annexation (Murray, 1957: 12-13). While Alfred Zimmern described the League as representing 'a great

political ideal', others were more sceptical. John Maynard Keynes thought 'it was simply stupid to believe that there would be any room for a principle of self-determination except as an ingenious formula for rearranging the balance of power in one's own interests' (Bain, 2003a: 78-107).⁷³

Moreover, there is plenty of evidence that the principle of promoting the wellbeing of the natives did not correspond to a change of colonial practices in the trust territories. The Trusteeship System, together with the policy of Indirect Rule, was targeted by the critics of empire.⁷⁴ Their main arguments were twofold: (1) 'in the territories of east, central, and southern Africa, the principle of trusteeship had been discarded for the sake of a corrupt alliance between pro-imperial, conservative politicians at home and local settlers and capitalists keen to establish white dominion'; and (2) 'Indirect Rule had served to retard the colonies' economic and social development' (Owen, 1999: 195). As Lord Olivier (1929: 4-5) argued, 'the interests of the African natives have not been regarded as paramount, and no one engaged in the process has ever pretended they were, or ought to be, so regarded.'⁷⁵ Once World War I was over, serious unrest took place in mandated territories, as well as other colonies, including Egypt, Iraq, Palestine, Transjordan, Sudan, India, Trinidad, British Honduras, Hong Kong, and Samoa. These revolts were met by the imperial authorities with a ruthlessness and repression that included the use of air power (Clayton, 1999: 287-290; Northedge, 1986: 203-207).⁷⁶

Nevertheless, the principles of protection of native inhabitants, accountability of imperial trustees, and international supervision of administration were greatly influential (Murray, 1957: 9). The idea of trusteeship reflected by these principles exerted increasing pressure – mainly from the US and Britain – over imperial powers in the relation to the administration of colonies and the treatment of colonised peoples. Even if the mandatory powers largely failed to uphold the principles of the Mandates System, the very fact that they formally committed to that principle illustrates the importance of the idea of trusteeship in international society. Hall (1948: 47) highlights the factor of conscience in the League, by which the Mandates System gradually raised 'the professed standard of administrative principle to the highest common level of human conscience and purpose'. With time, it

became harder for the mandatory powers, under scrutiny also at home, not to take the issue of the well-being of natives seriously. Had it not been for the mandates arrangement, the former territories of Germany and the Ottoman Empire would have been divided by the victors as spoils of war, while the rights and well-being of the natives would not have been a matter of international scrutiny.⁷⁷

These humanitarian concerns were also expressed in the functioning of the system. According to the League Covenant, the Permanent Mandates Commission would receive, examine and question accredited representatives of the mandatory Powers about their annual reports regarding the administration of the mandated territories. In order to guarantee impartiality, the members of the Commission were selected by the Council on the basis of personal merit and competence, and were not allowed to hold any office which could potentially undermine their independence. As the years passed, the respect of the mandatory powers for the Commission grew, and it came to enjoy of an independent position and exercise more authority than any of the other advisory committees serving the League Council. For example, the Commission was in a position to challenge South Africa's constant references to South West Africa as one of its sovereign territories, or to pressure Britain to drop its pretensions to take liberties regarding its mandate over Tanganyika. The Commission would discuss a wide variety of subjects, including the prohibition of slavery, native administration, economic equality, the situation of women, study of native languages, public health, and education. The Commission also had the special task of conducting an inquiry when the natives rebelled against the mandatory power (Northedge, 1986: 64, 197-201, 217).

The complex political and moral context that surrounded the establishment of the Mandates System suggests that the spirit that witnessed the institutionalisation of trusteeship was a mixed one. Anghie seems to be correct when he argues that the mandates legitimised the next phase of the civilising mission, and reflected a greater emphasis in economic development and changing the backward rather than simply exploring them. Nevertheless, he clearly overstates the aspect of economic development in detriment of the existing fears of political immaturity and potential chaos as a result of

premature independence in the perspective of the Trustees. Bain's interpretation that the mandates system provided protection against exploration and tyranny by rendering the backward peoples subjects of international law is also correct. Overall, the Mandates System represented the merge of the principle and norm of trusteeship with the norm of the civilising mission, and thus it is only possible to understand the true nature of trusteeship as present in the Mandates System as reflecting different, even antagonistic ideas and motives in international society. On the one hand, it meant the perpetuation of colonies and the mission to change the backward natives. On the other, it represented the protection of natives and their rights, as well as the accountability of empire and its eventual dismantlement. As Northedge (1986: 219-220) frames it, 'looking at it retrospectively from a time when the imperialist age is almost universally condemned, the League mandates would be regarded as part and parcel of that age.' Yet 'within the limitations of the times', it 'brought the government of at least a portion of dependent peoples into the light of the day.' In this sense, it helped transform the climate surrounding colonialism, and contributed to its demise.

6.5 The Road to San Francisco

In the inter-war period, the problem of mandated territories and dependent areas was subject to discussion in the US and Britain. The debate was not only motivated by concerns of justice, humanitarianism, and imperial responsibility, but also by Germany and Italy's desire to re-join the club of colonial powers (Murray, 1957: 23). In Britain, much of the debate centred on ways and means of improving the deficiencies in colonial administration. Moderate reformers were pushing for faster economic, social, and political development and increased technical and financial aid to colonies. Extreme conservatives were against all change, whereas some Labour Party members and other individuals farther left advocated for the complete abandonment of all colonial authority and responsibility. With World War II threatening the survival of the empire coupled with growing nationalist agitation in India and beyond, it became evident that the colonial system had

serious problems. Thus, the reformers' ideas for colonial policy gained ground within government circles (Thullen, 1964: 19-20, 27).

During World War II, the principle of self-determination gained momentum in the colonies and gave nationalist movements a powerful instrument with which they could claim their rights against imperial rule. Colonial powers had little option but to take into account the demands of dependent peoples. This drive towards independence finds its origins before World War II. World opinion had been influenced by President Franklin D. Roosevelt's 'Four Freedoms', the Atlantic Charter, and the revolutionary ideas that pushed public opinion and governments to think of and debate new solutions, that could work as an alternative to the League of Nations, to achieve peace, security, as well as economic and social well-being for all nations. With the collapse of the League of Nations, the necessity of a solution for the international supervision of colonial administration to replace the Mandates System became paramount (Thullen, 1964: 19-20).

By the end of World War II, Europe was destroyed and, as Thullen (1964: 11) notes 'the European colonial empires were crumbling in the face of nationalist and independence movements, as well as militant ideologies, against imperial rule.' This anti-empire drive did not arise in the colonies alone. The public opinion within the metropolitan countries was changing, pressuring their governments to embark upon more liberal programs of reform in the colonies. Nevertheless, the possibility of conceding independence to all colonies was eventually abandoned. This abandonment had as much to do with the prevailing idea that the peoples of most of these territories were not ready for self-government, as with the remaining territorial ambitions of the colonial powers. Thus, independence gave its place to a more conservative plan in direction of international supervision over the territories brought within the system, with the goal of self-government. Prime Minister Winston Churchill made his views public in Parliament and also at the Yalta Conference in discussions with Stalin and Roosevelt: 'I have not become the King's First Minister in order to watch over the liquidation of the British Empire.' In the words of Mr. Stanley, the British Colonial Secretary in 1943, 'the administration of British colonies must continue to be the sole responsibility of Great Britain.' Disagreeing with the American plans for

independence, the British defended the solution of self-government within the Empire. Also the French were reluctant about any considerable changes to the Mandates System. Moreover, both Britain and France opposed any system that would include all dependent territories (Murray, 1957: 27). Influencing the British position was the hope that the empire could stimulate the depressed British economy (Louis, 1999a: ix).

In the years that preceded the San Francisco Conference, there was a divergence in the US between the State Department and the War and Navy Department regarding the latter's desire to keep a few of the Japanese mandates of the Pacific islands. The War and Navy Department saw those islands as strategically important, and wanted to exempt them from the future system and placed them under direct control of the US. The State Department opposed this project and made the case for trusteeship for fear that the position defended by the War and Navy Department would undermine the credibility of the Atlantic Charter (Murray, 1957: 29).

In April 1945 in San Francisco, the Big Five plus Australia submitted their respective ideas and proposals regarding trusteeship. The issue of the basic objectives of the system was delayed due to the discussion over the possibility of adding the reference to 'independence', according to the Chinese and Soviet proposals, which faced British opposition, with American trying to reconcile the two positions (although siding with the British on the whole) (Murray, 1957: 23-24, 31-38). The controversy regarding whether the objective of the system ought to be 'self-government' or 'independence' was resolved through a Chinese compromise proposal, by which the objective of independence was linked to the phrase 'as may be appropriate to the particular circumstances of each territory and its people'. This compromise worked as an assurance to colonial powers that their empires, as Thullen (1964: 12, 48) puts it, 'would remain intact and that their colonies would be able to develop toward self-government within a commonwealth-type relation'. Thus, the new Trusteeship System would provide the mechanism through which the dependent territories could eventually obtain independence 'through evolutionary rather than revolutionary methods.'

In the first session of the UN General Assembly, the desire to set up the Trusteeship Council was expressed unanimously. In response, the

delegates from the United Kingdom, Australia, New Zealand, and Belgium all indicated their countries' willingness to place their mandates territories under the Trusteeship System. In doubt remained the mandated areas under control of France, who indicated that it would study arrangements for placing her territories under trusteeship; the Union of South Africa, who stated that it would consult the indigenous population of South West Africa; and the US, who remained silent about the Pacific islands previously mandated to Japan and now under its military control. In the final vote, the only states voting against the agreement were the Soviet Union (USSR) and the other Communist-controlled countries plus Liberia. Thus the agreements for New Guinea, Ruanda-Urundi, Western Samoa, Tanganyika, British and French Cameroons, and British and French Togoland were approved (Murray, 1957: 51, 72-73).

The trusteeship provisions were included in the UN Charter in chapter XII, which outlines the general system, and in chapter XIII, providing for the Trusteeship Council. Moreover, chapter XI contains a Declaration Regarding Non-Self-Governing Territories that refers to all dependent territories inside and outside the trusteeship system (Murray, 1957: 43). As with the Mandates System, the future trust territories were also divided into categories, but instead of adopting criteria that obeyed to different stages of political and economic development of each territory, the Trusteeship System divided the territories into strategic and non-strategic areas. This arrangement would apply to three types of territories: (a) former Mandates; (b) ex-enemy territories; and (c) territories voluntarily placed under the system by states responsible for their administration. For a territory to be brought under the system and for Chapters XII and XIII to come into effect, a trusteeship agreement had to be concluded, as explained in articles 75 and 77 of the Charter (Toussant, 1956: 39, 54-56, 77).

Article 76 of the Charter sets the basic objectives of the Trusteeship System:

- 1 – to further international peace and security;
- 2 – to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or

independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;

3 – to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and

4 – to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

Article 76 is another example of the centrality that security occupied in the minds of the architects of the Trusteeship System. To guarantee these objectives, and for purposes of local defence and maintenance of law and order within the trust territory, the administering authority could make use of the resources of the trust territories. This arrangement, as Toussant (1956: 54-55) explains, gives an active role in the application of enforcement provisions under Chapter VII of the UN Charter.

Although he acknowledges the importance of Great Powers' security and strategic interests surrounding the UN Trusteeship System, Bain (2006: 196) observes that 'it would be a mistake of some considerable magnitude to suggest that these institutionalised forms of trusteeship subordinate[d] the well-being of dependent peoples to the argument of national or international security.' Mazower (2009: 8) is more sceptical and argues that many commentators at the time of the San Francisco Conference expressed a more wary view of the UN than historians today tend to. These commentators 'saw the universalising rhetoric of freedom and rights that surrounded the creation of the organisation all too partial, a veil masking the consolidation of a greater power directorate that was not different from the Axis powers, in its imperious attitude to how the world's weak and poor should be governed.' Regarding the proclaimed concern with the status of all peoples, Gladwyn Jebb, a British civil servant, praised the ability of his American colleagues to 'delude human rights activists in San Francisco into thinking that their objectives had been achieved in the present Charter.' In particular, Mazower (2009: 9-21) highlights the influence of General Smuts in helping to draft the

UN's preamble. The US State Department officials who met in 1942 to draft the outlines of the future organisation found Smut's *The League of Nations: A Practical Suggestion* 'surprisingly apt today'.

While US officials expressed openly their opposition to colonialism, and exerted increasing pressure to the granting of self-government to the colonies, their position regarding the issue was often ambiguous. The same applies to the USSR (Plamenatz, 1960: 27). From its early stages, as Murray (1947: 79) notes, the Trusteeship system 'did not escape the East-West struggle.' Generally, the USSR was supportive of all national movements of revolutionary character as a means to achieve the end of fighting imperialism and contribute to the destruction of capitalism. Nevertheless, while their position regarding the League of Nations Mandates had been one of hostility towards an instrument of 'exploitation and oppression of colonial countries', it took a different, more positive attitude about the Trusteeship System plans being elaborated in the US during World War II. The USSR considered these plans an improvement when compared to the Mandates System, given that it explicitly provided for self-government and, implicitly, for independence of trust territories. They also wanted to be closely associated with the elaboration of the trusteeship provisions contained in the UN Charter, and secure membership of the future Trusteeship Council as to ensure direct influence over the Council's policies. Furthermore, the USSR hoped to acquire one of the Italian colonies in North Africa as a trust territory (Thullen, 1964: 44).

The changed power relationships and the rise of determined anti-colonialism were an obstacle that prevented Britain and France from exerting the kind of extensive influence over the Trusteeship System they had been able to the case of the League of Nations Mandates System. At San Francisco, however, the non-colonial powers failed to guarantee the support of the US, who had its own territorial ambitions over the Japanese mandates islands in the Pacific. The US considered the Pacific islands vital to American defence. This led President Truman to announce that the US government would submit a trusteeship agreement 'for any Japanese islands for which it [had assumed] responsibilities as a result of the Second World War'. The US declared its willingness to accept all obligations involved, as long as it

remained the sole administering authority and retained exclusive military, naval and right rights in the islands. Through its veto power in the Security Council, the USSR explored the US territorial ambitions in the Pacific by persistently demanding a territory in North Africa, namely Tripolitania. These pretensions had been made at Potsdam (July 1945) by Stalin, and later renewed by Molotov. Faced with American and British opposition, the USSR changed its plan to advocate a joint Soviet-Italian trusteeship, and then an Italian trusteeship, with the hope that it could indirectly control the ex-Italian colony through a Communist-dominate government in Italy. In the end, the USSR voted in favour of the US trusteeship proposal for the Pacific islands (Thullen, 1964: 49, 57-60).

In his opening speech before the Trusteeship Council on March 26, 1947, UN Secretary-General Trygve Lie remarked that a 'successful Trusteeship System will afford a reassuring demonstration that there is a peaceful and orderly means of achieving the difficult transition from backward and subject status to self-government or independence, to political and economic self-reliance' (Thullen, 1964: 16). In terms of the functioning of system, each trusteeship agreement had to be drawn up by the 'states directly concerned', and then approved by the General Assembly or the Security Council, depending on whether the trusteeship territory was considered strategic or nonstrategic. Yet there were no objective criteria to define this. By arbitrarily classifying a territory as strategic, the administering authority would be able to close some areas of the territory to international inspection, and instead of being subject to the supervision of the General Assembly, the administering authority would respond to the Security Council (Murray, 1957: 43, 77-78).

Nevertheless, the Trusteeship System included a few improvements regarding the obligations it ought to fulfil when compared to the League of Nations Mandates System. The idea that the trust territories would eventually achieve full independence in a time frame that did not involve a few centuries was an established one (Northedge, 1986: 196). The Council members consistently referred to the attainment of 'self-government' or 'independence' as the goal of the system, and the General Assembly constantly called for special reports on the trust territories with specific reference to the

achievement of political maturity. According to the UN Charter, only as long as the people of the trust territory consented, the political advancement towards independence could take the form of self-government within a larger political entity such as the British Commonwealth or the French Union (Murray, 1957: 211-214).⁷⁸

Moreover, two important aspects distinguish the Trusteeship System from its predecessor. The inhabitants of the trust territories could submit petitions to make their viewpoints represented at the Trusteeship Council. Also, according to Article 87 of the Charter, both the General Assembly and the Trusteeship Council could provide for periodic visiting missions to the trust territories. There were, however, crucial limitations to this mechanism. The visiting missions would have to have the consent of the administering authority and, more important, the distinction between strategic (under the wing of the Security Council) and non-strategic areas dictated that, in relation to the former, the administering authority could close any areas for 'security reasons.' Yet the visiting missions, together with the petitions, did achieve palpable results. A good example is the visiting mission set up in response to a petition from local leaders of Western Samoa requesting that the territory be granted self-government, with the advice and under the protection of New Zealand. It recommended to the Council a number of changes in the administration of Western Samoa, according to which the people of Western Samoa should be granted a greater measure of self-government (Murray, 1957: 150, 176-181).

6.6 Concluding Remarks

This chapter has illustrated how the idea and principle of trusteeship emerged in the context of the actions of the British East India Company. In particular, it has looked at Burke's central role in raising the issues of protection of the rights of native inhabitants against the Company's belligerence and misgovernment, which he saw as gross violations of the universal natural rights of man. Although the principle of trusteeship had limited effects over the actions of the Company, the notions of protection of native inhabitants and their customs, as well as the accountability and

obligations of colonialists permeated to a great extent the political debate about empire in Britain. The differences between the principle of trusteeship and the norm of the civilising mission, as reflected in the views of Burke and Mill, were also addressed. While the former, in Burke as in Vitoria, was about protection of the natives, respect for universal natural rights of man, and accountability and restraint of empire, the latter represented the drive to civilise and change backward peoples and nations according to the standards of civilised society.

The second section has challenged the argument, quite established in the literature, that the Berlin Conference represents the institutionalisation of trusteeship. The language and corresponding notions of trust, trusteeship, protection of the natives and their morals and customs, and accountability of the colonisers were notoriously absent from the General Act of the Conference. Instead, the Conference worked as a collective endorsement, by international society, of the civilising mission in Africa. The civilising mission, including the abolition of slavery was not only a motivation in itself but it worked as a legitimating argument for the achievement of other aims by the European powers. Nevertheless, the principle of trusteeship was still raised in the context of the partition of Africa. In this regard, the work of Morel was vital to raise awareness about the horrors taking place in Leopold's Congo Free State. The rise of an international movement with epicentre in Britain and the US against Leopold's misrule and right to govern that territory eventually led to the transfer of that right to Belgian authorities.

The institutionalisation of principle of trusteeship in the League of Nations Mandates System represented more than an attempt by pro-imperialists to legitimise the civilising mission, related with the still powerful colonial ambitions in international society and the fear that the backward nations' pre-mature independence would result in a chaos that would represent a threat to international peace and security. It was also more that an effort by the critics and sceptics of empire to protect the backward peoples, and place their destinies under the scrutiny of international opinion and international law. It was a complex compromise that represented conflicting ideas and motivations at play, not only between different views regarding the status of backward peoples and nations, but one between

conflicting visions about empire and its future. In this context, the idea of trusteeship and the civilising mission became part and parcel of the same project institutionalised in the Mandates System.

The UN Trusteeship System owes much to the Mandates System, and both were characterised very much by the same debates and questions. The re-institutionalisation of trusteeship represented the claim, largely shaped by the strategic and imperial interests of the Great Powers, that the backward were still not yet ready for self-government. Yet it also embodied the notion that independence would have to follow very soon. This higher prominence of the promise of self-government in the Trusteeship System when compared to its predecessor reflects the considerable ground that the idea of self-determination had gained in the inter-war period. It also meant that the argument about the backward status of certain peoples or political communities was under increasing scrutiny and ever harder to sustain in international society.

Finally, it should be noted that, as the claim about the backwardness of the trust territories became harder to sustain in international society, and the prospects of granting self-government to all backward peoples and territories became ever more likely, the project of transforming those territories into states in the image of the imperial centres gained further ground. Thus, through the institutionalisation of trusteeship, building sovereign states with effective institutions was applied by the empires in the mandated and trust territories as the only possible alternative to imperial and colonial domination (Reus-Smit, 2011: 211).

Chapter 7 - Underdevelopment in a Universal International Society

The division of the planet between North and South, between rich and poor, could become as grim as the darkest days of the Cold War. We could enter on an age of festering resentment, of increased resort to economic warfare, a hardening of new blocs, the undermining of cooperation, the erosion of international institutions – and failed development.

Henry Kissinger, 1975 speech to the Seventh Special Session of the UN General Assembly (in Donaldson, 1981: 359).

7.1 Introductory Remarks

During the nineteenth century the concepts of uncivilised and backward were the most prevalent expressions of the idea of defective polities. The latter remained so up to the end of World War II. Yet, the aftermath of the war would witness the demise of the claim that certain peoples and nations were backward. This period would also witness the universalisation of the principles of self-determination and state sovereignty. The purpose of this chapter is to understand the extent to which the idea we are concerned with survived during the Cold War, despite an international normative setting that was naturally hostile to its perpetuation.

The first section illustrates the demise of the concept of backward, in the context of the universalisation of the principles of self-determination and state sovereignty. The following section aims to understand if there was another concept(s) that came to replace the backward in expressing the idea of defective polities. Therefore, we look at the emergence of the concept of Third World underdeveloped states, and at how the new sovereign states this concept referred to shaped the international debates about the issue and the concept itself.

The remaining of the chapter aims to comprehend the functions of the concept of Third World underdeveloped states in the context of the Cold War. This global competition unfolded essentially into two, interrelated

dimensions, both of which reflected the two superpowers' visions of how the new states of international society should be governed. One dimension was the competition to export the antagonistic models of development promoted by the two superpowers. The other was a rivalry that played out in the security and strategic fields, with the Third World as the stage. In this regard, according to a number of scholars (e.g. Halliday, 1989: 16; Gaddis, 1997: 154; Westad, 2005: 5), the global rivalry and competition for power and influence between the United States (US) and the Soviet Union (USSR) is filled with imperialist, paternalistic, and universalistic overtones.

7.2 The Demise of the Backward Claim

The years that followed the San Francisco Conference and the setting up of the United Nations (UN) Trusteeship System would witness an increasing mobilisation against the idea that certain peoples and nations were backward, and thus not ready for self-government.⁷⁹ A number of developments help to understand this changing international environment. In the inter-war period, the horrors and destruction of the war in Europe contributed to demise of the idea of civilisation as essentially European-centred and white. After World War II, the notion of white predominance and superiority was decisively challenged, and all doctrines that justified racial discrimination lost their moral ground. Certainly, racial politics and discrimination did not vanish but, as Vincent (1984b: 239-241) argues, the post-World War II period does represent a dramatic departure 'from the previous notions of a biological hierarchy among different human types.' A prominent example of this is the increasing international pressure, particularly in the UN realm, over South Africa's race-based policies (Mazower, 2009: 26).

The revolt against 'Western dominance' grew in intensity after World War II, with the struggle for formal independence by the peoples of Asia, Africa, the Caribbean, and the Pacific (Bull, 1984c: 220-223). Yet the abandonment of the idea of empire did not happen simultaneously in all European colonial powers. In fact, most European colonial powers revived their imperial appetite after World War II. Illustrative of how the imperial will

was not a spent force in Europe was the British-French-Israeli invasion of the Suez in 1956. Justified as a response to the nationalisation of the canal, the underlying aim of the intervention was the removal of a dissenting Nasser from power (Kyle, 2003: 148-152).

According to Vichy, the empire was 'the last card France has left to play.' De Gaulle pointed the same way: 'Is our defeat final? No... For France is not alone! She is not alone! She has behind her a vast empire.' The project of recovering France's political prestige through empire was also supported by the political left. When the Algerian rebellion was already under way, Jacques Soustelle defended that 'to abandon Algeria' would amount to 'condemn France to decadence.' The liberal intellectual Albert Camus believed that Algerian independence was an illusion that would only lead to subjugation by a rival imperialism. In the words of François Mitterrand, 'without Africa, France will no longer have a history in the twenty-first century.' In the early 1960s, however, France quickly adjusted to the new world order and the colonial consensus had disappeared by 1962. Among the reasons pointed out for this change of spirit were the realisation that France could not win in Algeria and the influential intellectual attack on ethnocentrism (e.g. Claude Levi-Strauss's 1952 *Race et Histoire*). Four years after the loss of Algeria, French decolonisation was a fact (Andrew, 1984: 336-341).⁸⁰ As late as the 1950s, the Portuguese still attempted to justify their colonial rule in Angola through a description of 'the raw native' as backward, an 'adult with child's mentality', and held to their African colonies until 1975. Also in the 1950s, the Belgians claimed that 'the majority of Congo's population does not have an idea of what effective government is all about.' The Dutch, who did not have the means to retake Indonesia on their own, were assisted in this endeavour by British and Australian troops (Van Creveld, 2004: 326).

Regardless of the Suez episode, the post-war period witnessed an acute transformation of British colonial policy, with the definitive replacement of Indirect Rule by a strategy, directly led by the Colonial Office, aimed at 'democratising the empire'. The goals were the 'political advancement' of the colonial territories, by pushing them towards self-government as soon as possible, while consolidating British links with the future ex-colonies in order

to keep them within the Commonwealth. A sensitive issue in this regard was the attempt to reconcile the demands of African nationalism with the interests of the white settlers in the African continent (Louis, 1999b: 22).⁸¹ According to H.T. Bourdillon, assistant secretary and later a deputy UK commissioner in Singapore, the British Colonial Officials saw themselves engaged in a 'gigantic experiment, a worldwide experiment in nation building.' He described this process as 'the boldest stroke of political idealism which the world has yet witnessed and on by far the grandest scale' (Hyam, 1999b: 276-277). As the Colonial Office declared in 1948:

The fundamental objectives in Africa are to foster the emergence of large-scale societies, integrated for self-government by effective and democratic political and economic institutions, both national and local, inspired by a common faith in progress and Western values and equipped with efficient techniques of production and betterment (in Hyam, 1999b: 276-277).

This statement is a clear illustration of the application by the British government, to all colonial territories, of one of the central notions behind the establishment of the UN Trusteeship System: the project of civilising the backward and place them on the path of progress and towards self-government. Thus, at the time when the drive towards self-determination was becoming harder to halt, building states and state institutions in the image of the metropolitan centre was applied by the British as the only possible future alternative to imperial control (Reus-Smit, 2011: 209).

After 1945, the US and the USSR adopted rather ambiguous positions regarding empire and decolonisation (Reus-Smit, 2011: 212-213). In the inter-war period, the Bolsheviks' support for the struggles for national liberation only made an impact in Asia (Lowenthal, 1984: 324-326). Stalin's alliance with European imperialist powers against Nazi Germany was an obstacle for the former's support for anti-imperialist movements (Bull, 1984c: 225). When the Cold War was already taking shape, in 1947, the USSR re-adopted its general anti-imperialist campaign. At this point, however, Stalin's recovery of the doctrine that a Communist leadership was the crucial condition for independence of former colonies generated tensions between the USSR and the leadership of the new states. It was only during the

Khrushchev period (1954-1964) that Soviet policy would have a greater impact on the Third World (Lowenthal, 1984: 324-326).

American support for decolonisation was not always unconditional, particularly when placed against strategic goals and superpower rivalry (Louis, 1999b: 29). The US was also interested in guaranteeing access to the natural resources of British, French and Dutch colonies, namely oil, minerals and other raw materials, which were important both for the US and for the reconstruction of Western Europe and Japan (Painter, 2010: 486). Although internally it was not a consensual approach, the US helped Britain with its colonial expenses, including military ones, and eased the pressure for decolonisation in exchange for British assurances of 'modernisation' and 'democratisation' of the empire (Louis, 1999b: 29-30). Likewise, the US supported financial and militarily the French in their attempts to restore their colonial rule in Indochina (Van Creveld, 2004: 326).

Nevertheless, the European empires were no longer able to block the drive towards universal self-determination. In October 1945, the fifth Pan-African Congress that took place in England brought together the future leaders of almost all decolonised British Africa, as well as African-American and Afro-Caribbean delegates. The congress condemned imperial economic exploitation and called for the freedom of the colonies as 'the first step toward and necessary prerequisite to complete social, economic and political emancipation' (Bradley, 2010: 466, 471). This declaration represented a clear attack against the idea of conditional self-determination that was at the basis of the concept of backward. The rebellion of the colonised peoples, now in the form of diverse nationalist movements, directly shaped the post-1945 independence wave. It started in Asia, namely with India's independence in August 1947 (Krishna, 1984: 269), soon followed by the proclamation of the Chinese People's Republic in 1 October 1949 (Bull, 1984c: 221). As Jackson (1993a: 136) highlights, in 1945 there were only three sovereign states in Africa south of the Sahara: Ethiopia, Liberia and South Africa. In 1960, when the French empire was dissolved, the result was the creation of thirteen Francophone states, plus Nigeria, Zaire, Madagascar, Togo and Somalia. Twenty years later, only Namibia was still subject to alien rule. Founded by

50 states in 1945, by 1960 the UN's membership numbers had more than tripled (Jackson, 1990: 15).

Particularly after the big wave of independence of the late 1950s-early 1960s, the state became the instrument that the leaders of Asia, Africa, the Caribbean and the Pacific used to advance their anti-colonial purposes of overriding the old, Western-dominated international order (Reus-Smit, 2011: 207). The elites of the new states used the idea of nationalism as an anti-colonial instrument. In Africa, the natural eagerness of nationalists of the likes of Kwame Nkrumah, Julius Nyerere, and Sékou Touré to seize power led them, as Jackson and Rosberg (1982: 15) put it, to 'brush aside Africa's heterogeneous political heritage, and take over the control of the states that had been defined politically and geographically by the Europeans.' These borders were adopted officially by the Organisation of the African Union in 1964, during the Cairo Summit. The resulting resolution stated that 'the borders of African States, on the day of their independence, constitute a tangible reality' (OAU, 1964: 17). Nevertheless, the formal sovereign character of most of these new states contrasted deeply with their attachment to traditional practices and institutions, including tribal and ethnic identities (Jackson, 1993a: 140).⁸²

The transformation of the moral climate in international society was accompanied by the change in the legal one. The actions of the leaders of the recently independent states greatly contributed to this changing scenario. The leaders of the nationalist movements formed the Afro-Asian movement, the Non-Aligned Movement, and the Group of 77. They commanded the majority of votes in the UN General Assembly, and claimed to represent the majority of the world's population (Bull, 1984c: 227). These efforts were also expressed in numerous documents, including: (a) the Universal Declaration of Human Rights (1948), which provided a powerful vocabulary to construct anti-colonial claims (Bradley, 2010: 471-472); (b) the 1960 Declaration on the Granting of Independence to Colonial Peoples; (c) the 1965 resolution recognising the right to use force in a war of national liberation; and (d) the 1974 Declaration of a New International Economic Order (Bull, 1984c: 227).

The UN General Assembly's Resolution 1514 of 1960 (the Declaration on the Granting of Independence to Colonial Peoples), under

Chapter XV of the Charter, institutionalised the principle that dependent peoples were entitled to determine their own destiny without pre-conditions, be it political or economic. This represented a fatal blow to the backward claim that constituted the basis of the UN Trusteeship System (Bain, 2003a: 143). Point five of the resolution was quite explicit regarding the unconditionality of self-determination:

Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinctions as to race, creed or colour, in order to enable them to enjoy complete independence and freedom.

Adopted by a vote of 89 to 0, with only 9 abstentions, the resolution declared that the 'inadequacy of political, economic, social or educational preparedness should never serve as a pretext for delaying independence' (Jackson, 1999: 143). In this context, the Trusteeship Council was rendered almost obsolete.

In principle at least, state sovereignty was no longer contingent or dependent of conditions or standards set out by Europeans and peoples of European descent. As Jackson (1990: 16-17) puts it, the universalisation of the principle self-determination determined that the only condition to be a sovereign state was to 'have been a formal colony.' Resolution 1514 comes in the sequence of previous initiatives, such as the Montevideo Convention of 26 December 1933 – The Convention on the Rights and Duties of States – which seek to ensure the unconditional right to statehood by claiming that 'the rights of each one do not depend upon the power which it possesses to assure its exercise' (Foreign Policy, 2010: 21). The Convention was signed and ratified by the US and a number of Latin American States. Its Article I set out the basic criteria for statehood: '(a) a permanent population; (b) a defined territory; (c) a government; and (d) capacity to enter into relations with other States' (Crawford, 2006: 45-46). The view that the right to statehood did not depend on the power of the state to assure the exercise of sovereignty obtained further legal support in 1963, with the UN Security Council

resolution 183. It acknowledged formally the interpretation of self-determination laid down in General Assembly resolution 1514 (Bain, 2003a: 135).

Despite these developments, various figures from the political and intellectual spheres suggested that the imperial age was not really over. *In Neo-Colonialism: The Last Stage of Imperialism* (1965), Kwame Nkrumah argued that the 'neo-colonialism of today represents imperialism in its final and perhaps its most dangerous stage.' As he put it:

Neo-colonialism is based upon the principle of breaking up former large united colonial territories into a number of small non-viable States which are incapable of independent development and must rely upon the former imperial power for defence and even internal security. Their economic and financial systems are linked, as in colonial days, with those of the former colonial ruler.

His essential point was that, particularly when it came to the economic systems of the former colonies, these were 'directed from outside.' This undermined the formal independence of the new states. He expressed serious concerns about the continuous interference, largely covert, by 'Western intelligence set-ups either by persuasion or by force', in the affairs of the former colonies. He gave the examples of Algeria, Guatemala, Iran, Iraq, Egypt (Suez), Korea, Burma, Formosa, Laos, Cambodia, South Vietnam, and Congo.

In his now famous *Orientalism* (1978) thesis, the Palestinian Edward Said criticised the old but alive stereotyped pre-conceptions at the basis of the Western scholars, travellers, and imperialists' 'constructions of the Orient and Oriental peoples.' In his view, the reproduction of these images of the Orient in the academic institutions of the West was intimately connected with relations of power, namely Western imperialism, colonialism and neo-colonialism. Said's thesis would give rise to the field of 'postcolonial studies' (Kennedy, 2000: 14-16, 111-113).

7.3 The Third World Underdeveloped States

To the declining power of Europe after World War II corresponded the confirmation of the US and the USSR as superpowers, and the (re)affirmation of China in the international stage (Bull, 1984a: 226). At centre of this new international order was a new conflict between its two most powerful states (Gaddis, 1997: 6, 15). This conflict would soon be called the 'Cold War', a concept first used by George Orwell in his article 'You and the Atom Bomb' (1945). He feared that humanity could be 'heading not for general breakdown but for an epoch as horribly stable as the slave empires of antiquity', and warned about 'the kind of world-view, the kind of beliefs, and the social structure that would probably prevail in a state which was at once unconquerable and in a permanent state of "cold war"'. This was a critical reference both to the US and the USSR's systems of thought. As Westad (2005: 2) explains, from a critical term, later in the 1950s Cold War 'came to signal an American concept of warfare against the USSR: aggressive containment without a state of war.'⁸³

Together with Cold War, probably no other concept marked world politics during the second half of the twentieth century as profoundly as 'Third World'. In what concerns the concept's geographical origins, there is a consensus in the literature that one should look at France, namely to Abbé Sieyès' eighteenth century pamphlet *Qu'est-ce que le tiers état?* Yet there is much disagreement about when exactly in the post-1945 period was the concept (re)used in the French political context. Wolf-Phillips (1981: 3) notes that the concept *Tiers Monde* was popularised in France between 1947 and 1949 'to describe the political parties that took their stance between the *Gaulist Rassemblement du Peuple Français* and the regime of the Fourth Republic'. Worsley (1980: 15) challenges this assumption, arguing instead that it was the French independent left – who sought for an independence of the Communist Party on the left and opposed the rightist capitalist parties – that through a 'non-alignment' policy gave meaning to the concept of Third World and its synonyms Third Force and Third Way. Regarding the question of who might have coined the concept, Wolf-Phillips (1980: 3) points to Alfred Sauvy, who used it in 1952 to refer, in the context of the two Cold War blocs, to the 'non-aligned' countries. Worsley (1980: 15-16) shows instead that Claude Bourdet used the term as early as April 1949. Yet as Worsley

recognises, Bourdet's use of the concept referred essentially to internal politics in Europe, while Sauvy's usage of the concept is already in its international, Cold War context. In this latter sense, it was probably Argentina's President Juan Peron the early champion of the concept with his neutralism policy, or Third Position (Love, 1980: 33).

In the late 1940s-early 1950s, Third World was indeed associated in international society with the idea of neutrality and non-alignment in relation to the two Cold War blocs (Wolf-Phillips, 1980: 3). It was present in the political initiatives of leaders such as Nasser, Tito and Nehru and their countries' non-aligned foreign policies. The concept gained prominence after the 1955 Bandung Conference, a result of a series of initiatives by India, Ceylon, Pakistan, and Indonesia, with the goal of forming a protest group against two inter-related issues: the deadlock over new UN memberships, and the failure to secure a wide-spread decolonisation since 1947-48 (Westad, 2005: 2). Furthermore, this group objected to the way that the Cold War rivalry monopolised the UN. Symbolically, it represented an expression of Asia and Africa's political renaissance, opposed to the white races' hegemony (Lyon, 1984: 229-230).⁸⁴

Contrary to what many observers wrote about the topic at the time, the Bandung Conference was not a non-aligned conference, given that Turkey, Pakistan, or Japan, to name a few examples of countries already aligned, were present at the Conference (Lyon, 1984: 230). Thus, the claim that until the big wave of independence in the 1960s, the concept Third World referred to that group of nations, essentially from Africa and Asia, that were anti-colonialist and that adopted non-aligned policies (Wolf-Phillips, 1980: 4), needs to be partly reconsidered. Third World did mean in its initial international usage non-alignment, but it took on another, more important meaning before the 1960s, one also related with the Cold War dynamics.⁸⁵

The striking variety of states that, during the Cold War, were considered part of the Third World raises the important question of what element they had in common. They were not all colonies at the end of World War II, and as Gaddis (1997: 153-154) notes, 'a few had never been'. Moreover, not all of them were non-aligned. In fact, many of them were aligned with either Washington or Moscow. Also racism fails to offer an

explanation for the commonalities between the Third World states, as both alliances and antagonisms were largely immune to racial elements. Gaddis concludes that the one characteristic shared by Third World states is the fact they were seen as pre-industrial by the industrialised world. That all Third World countries were pre-industrial takes us to the key meaning that the concept adopted since the 1950s: the 'underdeveloped', soon regarded as pejorative by the governments of the states to which it applied (Wolf-Phillips, 1980: 4). This sentiment was expressed in the speech of President of Indonesia, Sukarno, in the Bandung Conference. When talking about the states present at the conference he stated that 'many of us, the so-called "underdeveloped" nations, have more or less similar economic problems' (Bradley, 2010: 479-480).

Opposed to the pre-industrial character of the Third World countries was the industrialised nature of the two superpowers. There was a major material gap between the "two worlds" led by the superpowers and the Third World. As Wolf-Phillips (1981: 4) and Gaddis (1997: 153-154) note, this originated the three-fold division of the world into the Western, capitalist world; the USSR-led group of communist, centrally-planned economies; and the Third World underdeveloped. Although conceptually the Third World reflected a division of the world based first and foremost on economic standards, a few scholars (e.g. Worsley, 1981: 14-15; Muni, 1981: 23) naturally point out that this division is political as well.⁸⁶

The preponderance of the concepts of developed and underdeveloped in post-World War II international society echoes very much the nineteenth century notion of stages of progress. As it was the case with the concept of backward, the underdeveloped also presupposed an opportunity for improvement and the associated project to assist those to whom that condition applied, so as to help them get away from that condition. Closely linked to this idea was the importance that the issue of poverty in the Third World gained after World War II. As a panel of international experts declared in 1948, 'genuine world prosperity is indivisible, and it cannot last in one part of the world if the other parts live under conditions of poverty and ill health' (Escobar, 1995: 21-22).

The concept of underdevelopment was popularised on the international stage by US President Harry Truman, in his Inaugural Address on 20 January 1949 (Rist, 2008: 73). Truman's speech described the US-led strategy to rebuild a new international order in four points. While point number one affirmed the continuation of US support to the UN, the fourth advanced the idea of extending the technical assistance, i.e. economic one that the US was already giving to parts of Latin America to the poorer countries of the world. Truman's Point Four started by setting out the problem of underdevelopment:

Fourth, we must embark on a bold new program for making the benefits of our scientific advances and industrial progress available for the improvement and growth of underdeveloped areas. More than half the people of the world are living in conditions approaching misery. Their food is inadequate. They are victims of disease. Their economic life is primitive and stagnant. Their poverty is a handicap and a threat both to them and to more prosperous areas.

According to Truman, the US led free world of developed, industrialised countries was in a privileged position to help the poor peoples of the world to escape their undeveloped condition through capital investment, and industrial and scientific techniques. The UN and its specialised agencies would play an important role, in a 'worldwide effort for the achievement of peace, plenty, and freedom', as well as 'international security'. This was seen as a 'righteousness' mission for America, to meet her 'responsibilities' to help all those 'who wish to live in freedom', in a clear reference to the Communist threat. Finally, according to Trumann, the old imperialism had no place in the US strategy, which envisaged 'a program of development based on the concepts of democratic fair-dealing'.

The idea of economic development as the project and the process through which the underdeveloped would be assisted to escape that condition is closely linked with the belief in modernisation, progress, economic growth, and the potential of science and technology. In this regard, Walt Whitman Rostow's work, namely *The Processes of Economic Growth* (1952) and *The Stages of Economic Growth: A Non-Communist Manifesto*

(1960), is a prominent example of the kind of evolutionist, socio-economic thinking that characterised modernisation theory in the US after World War II (Rist, 2008: 93-94). Not only was Rostow a leading intellectual influence in the US, he also had close connections with successive US administrations. He was one of Kennedy's speech-writers, and later one of Johnson's top aides (Haefele, 2003: 82-90). Another influential voice on the benefits of modernisation was Seymour Martin Lipset an American political theorist and sociologist. In *Political Man: The Social Bases of Politics* (1960), Lipset defended the existence of a direct correlation between economic prosperity and the advance of democracy within states.

On the one hand, the leaders of Third World states expressed their unease with the concept of underdeveloped. Quite in vogue after World War II, the concept would be not only increasingly challenged and contested, but also replaced by other similar concepts such as 'developing' – the most notable and the preferred one in the UN realm (Cooper, 2010: 62) – 'less-developed', or '*en vie de development*', also used by Third World states as self-referential. These conceptual shifts reflected not only the economic growth experienced by Third World states in the 1960s (Waterlow, 1979: 120), and the aspiration of the elites of developing nations to move away from their 'agrarian' condition, but also the atmosphere of contestation in relation to the terms of development (Worsley, 1980: 17; Wolf-Phillips, 1981: 4). As Latham (2003: 3) puts it, 'modernisation became the subject of intense debate, negotiation, and division for those aspiring to development. The elites of underdeveloped countries redefined its meanings, goals and values to fit their own specific historical experiences and political contexts.' The constant international debate about the meaning of development and how it ought to be achieved was reflected in numerous related concepts, including the 'basic human needs approach', 'participatory development', and 'socialist development' (Escobar, 1995: 5).⁸⁷

Thus, economic development came to be seen as a right of all sovereign states in international society, with calls by Third World states for preferential treatment in this regard, and was no longer a pre-condition for independence as expressed by the concept of backward (Jackson, 1990: 118-122). The issue of development in the Third World walked hand in hand

with the former colonies' struggle for economic justice (Bull, 1984c: 222). The Bandung Conference (1955) marked the beginning of collective demands by the Third World not only regarding decolonisation but also in relation to economic development. The first section of the conference's Final Communiqué titled 'Economic Cooperation' represents a first step towards what later became the New International Economic Order, by emphasising the principles of 'collective self-reliance' (later South-South co-operation). Nevertheless, the 'valuable contribution' of both bilateral and multilateral aid from 'outside the region' to the development of participating countries was recognised. The conference exerted international pressure to inflect the policies of existing international institutions dealing with development (Rist, 2008: 82-85). Point 1 of the 'Economic Cooperation' section recalled 'the urgency of promoting economic development in the Asian-African region'. What the countries present in Bandung aimed at was a re-definition of the terms of development, for which they suggested a number of measures, including: (a) 'technical assistance among the conference participants'; (b) 'the establishment of the Special United Nations Fund for Economic Development'; (c) 'the allocation by the International Bank for Reconstruction and Development of a greater part of its resources to Asian-African countries'; and (d) 'the early establishment of the International Finance Corporation' (Rist, 2008: 82-88).

The Bandung Conference led to the definition of 'Non-Alignment' at the Belgrade Conference (1961), that later resulted in the creation of the 'Group of 77' on the occasion of the Economic Conference of Developing Countries held in Cairo. Most of its demands were repeatedly taken up in UN resolutions, and gradually won acceptance (Rist, 2008: 88). The Third World states' un-satisfaction with the terms of international trade, for example, led them to increase the pressure for the setting up of the UN Conference on Trade and Development (UNCTAD) in 1964. Yet disillusionment became widespread after the third meeting of the UNCTAD in Chile, with developed states delaying and evading the need to liberalise trade and to embark in monetary reform. They transferred responsibility for the issues to the General Agreement on Tariffs and Trade (GATT) and the International Monetary Fund

(IMF), where their influence was dominant (Waterlow, 1979: 101-103, 122-123).

At the end of the first Development Decade, rich countries had failed to fulfil the promise of destining 1 per cent of GDP to aid, although developing countries had met the target of 5 per cent growth. Following a recommendation of a World Bank report (the Pearson report), the UN General Assembly adopted in October 1970 the International Development Strategy for the Second United Nations' Development Decade (resolution 2626), setting new targets for growth by the poor countries and for aid from the rich countries, and proposing a strategy to treat development in a global and integrated manner. The Group of Seventy-Seven poor countries described the document as 'the best possible reflection of the present stage of the collective conscience of mankind in one of the most crucial areas of organising human society,' while the Communist bloc remarked that development should take place in the context of socialist policies (Waterlow, 1979: 120-121).

An initiative designed to raise debate about the nature of development ought was the 1975 'Dag Hammarskjold Report', prepared on the occasion of the Seventh Special Session of the UN General Assembly. The report emphasised the point that there was no universal formula for development; that development was not simply an economic process, and was deeply related to the particularities of each culture and society (Rist, 2008: 155-156). Another important event for the Third World's defence of its own interests in development issues was the fourth Non-Aligned Summit that met in August 1973 in Algiers. This summit, together with the Special UN Session on Development in mid-1974, launched the campaign for a New International Economic Order (NIEO) and contributed decisively to a greater organisation and institutionalisation of the Non-Aligned movement. As Lyon (1984: 234-235) explains, the interchangeable use of the terms 'non-aligned', 'developing countries' and 'Third World' in the Algiers Declaration testifies to a new solidarity, in the sense that 'the non-Aligned identified their interests as those of all developing countries and vice-versa.' The Algiers Summit openly declared that the economic imbalance between the developed and the developing countries was a result of 'selfish colonialism, neo-colonialism and

imperialism.’ The proclamation of the NIEO was accompanied by a Programme of Action, and complemented by the Charter of Economic Rights and Duties of States. Article 10 of the Charter noted that all states ‘are juridically equal’ and therefore possess ‘the right to participate fully and effectively in the international decision-making process in the solution of world economic, financial and monetary problems... and to share equitably in the benefits resulting therefrom.’ Article 14 acknowledged the duty of ‘every State’ to promote material well-being and living standards of all peoples, ‘particularly those of developing countries’ (Jackson, 1990: 122). Yet as Rist (2008: 144) notes, there was little of new in the NIEO, as it basically advocated the pursuit of development through economic growth.

The intellectual counteroffensive against modernisation theory and the idea that foreign aid and domestic growth would bring a better future for the Third World came from a variety of sources. These included neo-Marxists such as Paul Baran and Paul Sweezy, who published *Monopoly Capital: An Essay on the American Economic and Social Order* (1966) (Rist, 2008: 109-110). Another challenge to the then predominant assumption that economic development was the key factor for the creation of prosperous and stable democratic states came from Samuel Huntington’s *Political Order in Changing Societies* (1968). His essential argument was that, without order, be it authoritarian or democratic, development and modernisation were often a source of instability. The challenge to modernisation theory also came from Latin American intellectuals, including Raul Prebisch, Osvaldo Sunkel, Fernando Henrique Cardoso, Enzo Faletto, Celso Furtado, Orlando Fals Borda, and Rodolfo Stavenhagen. These were joined by other researchers and intellectuals from other continents, namely Samir Amin, Andre Gunder Frank, Pierre Jalee, Dieter Senghaas and Johan Galtung (Rist, 2008: 109-110). In the essay ‘The Development of Underdevelopment’, the sociologist Gunder Frank made the case that underdevelopment was not a result of the lack of capitalism. Instead, he argued, underdevelopment was a consequence of the development of capitalism in the First World and its exploitation of the Third World (Gilman, 2003: 65).

All these international debates and initiatives surrounding the concepts of development, underdeveloped, and developing illustrate the changing normative context in international society. Those peoples and

nations that were considered backward until recently, were now making use of their sovereign character to shape the major debates in international society regarding their own status. Thus, while the concept of underdeveloped to refer to Third World states carried much of the same paternalism than its backward predecessor, it did not have the normative power, at least in principle, to deny the underdeveloped states the right to self-determination and self-government. In this context, the concept of underdeveloped was shaped and changed, first and foremost, to developing. This change reflected the empowerment of the leaders of Third World States, and their will to lead the process away from underdevelopment. Despite the general consensus in international society about the importance of economic development in the recently independent states, there were great divisions about what development should do and how it ought to be achieved.

7.4 Two Conflicting Visions of Development and State-Building

Regardless of their rivalry, the two superpowers shared a number of characteristics (Jervis, 2010: 23-24). As Westad (2005: 5, 39-40) puts it, both 'were founded on ideas and plans for the betterment of humanity.' Their founders saw their countries as grand experiments, both their leaders had a universalistic approach to the world, and ideology played a particularly important role in defining their alliances and enmities. Both superpowers also exhibited, as Engerman (2010: 23-24) argues, 'a tension between determinism and messianism', in the sense that their leaders believed 'history was on their side', but were 'unwilling to wait while history took its course.' They actively pursued the task of transforming the world according to their respective visions of modernity. Closely associated with the two superpowers' visions of modernity was technology, which shaped to a great extent the nature of the Cold War. Beyond nuclear weapons, the advances in science and technology provided the two superpowers with a capacity to project power globally, as well as an essential tool for their respective development strategies (Westad, 2010: 11-12).

The colonised peoples appropriated the sovereign state as the instrument through which they achieved liberation from colonial rule. In this context, the modernist models of US market capitalism and Soviet (and later Chinese) communism constituted two competing alternatives for the postcolonial states (Bradley, 2010: 465).⁸⁸ Many Third World states played with the fact that 'the Cold War was bipolar to the point of exclusivity,' meaning that if one's enemies were supported by one superpower, there was always the option of getting aid from the other. As the Cold War went global, the Third World states became the stage of not only an ideological confrontation but also, as Westad (2010: 19, 89) puts it, of two competing 'models of state-building.' Despite the predominance of the two superpowers' projects of development, the former European colonial powers, once they relinquished their colonies, still kept political and economic ties with their former territories. Much of these ties took the form of economic development programs. In the case of Britain and France, both countries gave most of their bilateral aid to their former colonies. During the Cold War, developing Commonwealth countries received ninety per cent of British aid, while African Francophone countries received two-thirds of the French aid (Waterlow, 1979: 116).

The US played a central role in the re-organisation of the post-World War II international order. This international order consisted of two major inter-related settlements. One was the Cold War logic of superpower-led blocs, or bipolarity. The other settlement was the one among the Western, industrialised democracies plus Japan, resulting, as Ikenberry (2001: 163) describes, in a US-led 'dense set of new security, economic, and political institutions'. In the logic of his plan to use American power to build an international environment conducive to 'the American way of life' (Leffler, 2010: 68), and in the sequence of a successful Marshall Plan, President Truman asked Congress for a grant of \$45 million to aid the underdeveloped world with technical assistance and capital investment. The UN responded to Truman's call by setting up a Technical Assistance Board within its Secretariat (Waterlow, 1979: 114-115). By this time, looking at Mao Zedong's establishment of the People's Republic of China, the US political leadership

was already wary of the appeal that Communism could have outside Europe (Engerman, 2010: 33).

Successive American presidents, including Dwight D. Eisenhower, John F. Kennedy and Lyndon B. Johnson, saw the Cold War as a long-term ideological, military, political, economic, scientific and cultural competition. In particular, these three presidents believed that Western-style modernisation, and more specifically US values and institutions, were the best model for underdeveloped states. For Kennedy and Johnson, the new decolonised countries were part of the Cold War competition, and quite in contrary to the idea of 'appeasement', the US could not stand and watch while the USSR, as well as China, spread its influence (Costigliola, 2010: 112-114).

In the US perspective, the UN ought to play an important role in the new international order and in the question of development, which together with human rights and decolonisation became the other key issue on the UN's agenda after World War II. In 1948, the UN General Assembly adopted two resolutions titled Economic Development of Underdeveloped Countries and Technical Assistance for Economic Development (Rist, 2008: 70). Another important document was the report Measures for Economic Development of Underdeveloped Countries (1951), published by the UN Department of Social and Economic Affairs (Escobar, 1995: 3). According to Point 36 titled 'Measures Requiring Domestic Action':

There is a sense in which rapid economic progress is impossible without painful adjustments. Ancient philosophies have to be scrapped; old social institutions have to disintegrate; bonds of caste, creed and race have to burst; and large numbers of persons who cannot keep up with progress have to have their expectations of a comfortable life frustrated. Very few communities are willing to pay the full price of economic progress.

These words describe a coming clash between the modernist drive towards development and economic progress of the Third World states, and their local, social and cultural contexts.

Beyond Article 55 of the UN Charter that required the UN to promote 'higher standard of living, full employment, and conditions of economic and social progress and development', and the UN General Assembly's concern

with the issue of development since at least 1948, the organisation did not have a special structure in the area of international development (it was essentially a responsibility of the UN Secretary-General and the Economic and Social Council). On 16 November 1949, the General Assembly approved the creation of an 'Expanded Programme of Technical Assistance', to provide for funds to send technical experts to the Third World, to grant scholarships to Third World citizens, and the training of managerial personnel. In 1958 the UN created the Special United Nations Fund for Economic Development (SUNFED), which later merged with the Expanded Programme of Technical Assistance to form in 1965 the United Nations Development Programme (UNDP) (Rist, 2008: 88).

The International Bank for Reconstruction and Development (IBRD), part of the later World Bank (WB), gradually came to allocate the majority of its funds to the Third World. It set up the International Finance Corporation (IFC) in 1956 to promote private investment; established the International Development Agency (IDA) in 1960, charged with the task of making loans at better than market rates to most underdeveloped countries; and created its two regional banks in Africa (1964) and Asia (1966). In 1964, the stabilisation of raw material prices and problems of transports led to the creation of the United Nations Conference on Trade and Development (UNCTAD) (Rist, 2008: 85-89).

Both Kennedy and Johnson placed great emphasis on the issue of development in the Third World. For them, international development was part and parcel of the US national security strategy. The potential failure of Third World states to develop and subsequent chaos was seen as a threat which communism could take advantage of. In Kennedy's words:

To fail to meet those obligations now would be disastrous; and, in the long run, more expensive. For widespread poverty and chaos lead to a collapse of existing political and social structures which would inevitably invite the advance of totalitarianism into every weak and unstable area... We live at a very special moment in history. The whole southern half of the world – Latin American, Africa, the Middle East, and Asia – are caught up in the adventures of asserting their independence and modernising their old ways of life (in Westad, 2005: 35).

This expanded notion of security to include economic and social development in 'poor nations' in order to 'prevent conflict' and guarantee global 'order and stability' was defended by Robert McNamara, Kennedy's Secretary of Defence and later president of the WB, in his book *The Essence of Security: Reflections in Office* (1968) (Del Rosso, 1995: 181-184). In his first year as president, Kennedy launched several programs and created numerous organisations with the purpose of assisting the development of the underdeveloped states 'toward US-style modernisation'. These included the Food for Peace, the Peace Corps programs, and the US Agency for International Development (USAID) to administer US civilian aid programs (Haefele, 2003: 81-82). The US also joined the Organisation for Economic Cooperation and Development (OECD) founded in 1960 (Holbik, 1968: 29).⁸⁹

Kennedy gave special attention to Latin America, which he saw simultaneously as the 'nation's backyard' and 'the most dangerous area in the world'. These fears were not confined to USSR's presence in Cuba, although this situation greatly influenced Kennedy in his quest to prevent other Castro-type revolutions in the region. Kennedy established the Alliance for Progress, to promote economic growth, redistribution of wealth, education, and democracy. For this project, he pledged \$20 billion in public and private US capital. Outside Latin American, Kennedy established a client-government relationship with Saigon, seen as a vital partner and described by Kennedy as 'the cornerstone of the Free World in Southeast Asia, the keystone to the arch, the finger in the dike.' He subscribed to Eisenhower's 'domino theory', by arguing that keeping the 'finger in the dike' was the key to preventing the Communists from flooding all Southeast Asia (Costigliola, 120-123).⁹⁰

The US Congress' Act for International Development of 1961 is a clear example of how development was interlinked with Cold War politics. It committed the US Government to five principles in the allocation of aid: (1) 'to strengthen the economies of underdeveloped friendly nations'; (2) 'to encourage the flow of private investment capital'; (3) to promote, for those aided, an environment 'free of pressures and erosion by the adversaries of freedom'; (4) 'to serve as an instrument of the Cold War'; and (5) 'to stimulate the growth and favour the equilibrium of the economy of the United States'

(Waterlow, 1979: 115-116). With decolonisation at its height, the idea of aid gained increasing international support. Following a suggestion by Kennedy, in 1961 the UN General Assembly pronounced the sixties as the 'Development Decade', setting two targets: a growth rate for the developing countries of 5 per cent of national income and the rich countries' contribution of 1 per cent a year of their national income in aid (Rist, 2008: 90).⁹¹

The affairs of the backward peoples and territories had been of interest to Lenin. Yet the nature of this interest was political rather than economic. During the inter-war period, supporting the national liberation movements in Asia, Africa and Latin America was part of the strategy to advance the cause of international proletarianism. Even the aid treaties that the Russians concluded with Afghanistan, Iran, Turkey, and Mongolia in 1921 and with China in 1924 did not translate into material support (Holbik, 1968: 22-23). Immediately after World War II, USSR provided military support (in the form of weapons transfers) to local Communist groups in underdeveloped states, including the Philippines, Malaya, Burma, and Indonesia (Holbik, 1968: 47). As Gaddis (2010: 3) explains, very much in contrast with the approach under Lenin, who regarded 'imperialism as the highest form of capitalism and thought both were doomed', Stalin's strategy merged the old tradition of Russian imperialism with Marxist-Leninist ideology. While Lenin never adopted the reconstruction of empire as a strategy to destroy capitalism, Stalin's plan (also in face of the rise of Nazi Germany and Japan) was to reclaim the territories once owned by the Russian empire, and to build spheres of influence with the goal of having only 'friendly' neighbours.

When Stalin died in 1953, Europe was already divided across the two Cold War blocs. Regarding the Third World, Stalin's strategy did not make a major impact (except in some parts of Asia), due to the doctrine that a former colony should only become independent under Communist leadership, which created a conflict between USSR's leadership and that of some of the new states (Lowenthal, 1984: 324-326). Thus, by the time of Stalin's death, the USSR's strategic position in the Third World was quite weak, particularly when compared to the Western bloc, being mainly restricted to communist allies in Asia (Kanet, 1981: 331).

The USSR policy towards the Third World was reassessed with Khrushchev, who saw decolonisation as a 'postwar development of world-historical significance' (Bradley, 2010: 475). In principle, the US closer connections with colonial powers provided an advantage to the USSR in their promotion of the Communist model in the Third World (Gaddis, 1997: 154). In Khrushchev's words, 'we declare war upon the United States in the peaceful field of trade. We will win over the United States. The threat to the United States is not ICBM (Intercontinental ballistic missiles) but in the field of peaceful production. We are relentless in this and it will prove the superiority of our system' (Holbik, 1968: 20). During the Khrushchev period (1954-1964), USSR's strategy was to establish or reinforce its ties with Third World states, while at the same time convince the latter to adopt USSR's model of development (Lowenthal, 1984: 326-328). USSR's aid was directed at the development of the state sector of underdeveloped countries. As Bradley (2010: 475) explains, the USSR's centralised planning 'Five-Year Plans', included huge new steel plants and dams, as well as the mechanisation of collective agriculture. In Khrushchev's view, the USSR was offering postcolonial elites a strategy for economic growth and rapid industrialisation. Two countries where this strategy was first tested were Indonesia, under the nationalist government of Sukarno (Lowenthal, 1984: 326-328), and in Afghanistan, through a small technical assistance agreement (Holbik, 1968: 25).

Khrushchev's approach was more pragmatic than Stalin's. In spite of the rhetoric about constructing a model of development, i.e. Communist, in underdeveloped states, under Khrushchev the USSR provided assistance to states whose governments were not socialist, such as Afghanistan and Haile Selassie's Ethiopia, with the purpose of undermining the dominant Western position (Kanet, 1981: 333). The USSR also supported progressive non-Marxist movements for national liberation, confident that its own model of anti-imperialism and economic growth would strongly appeal to the elites of the decolonising states. Thus, the USSR donated billions of rubles in economic (and military) aid to India, Indonesia, and Egypt (under Nasser) – the future leaders of the Non-Aligned Movement – with the purpose of bringing them into its sphere of influence (Bradley, 2010: 475). Other

important recipients of USSR's aid were Cuba, Syria, Iraq, South Yemen, Pakistan, and Somalia. Despite the importance of promoting USSR's model of development, there were other motivations behind their distribution of aid to the underdeveloped countries, namely the degree of strategic importance of the recipient country, and the benefits for Soviet Union's economy (particularly important in the Brezhnev era) (Kanet, 1981: 336, 339-340).

Overall, the majority of USSR aid to underdeveloped countries was provided through repayable credits. Seventy five per cent of all USSR's economic assistance was directed towards the construction of a state-owned, industrial base, consisting mainly of large machinery and equipment, targeting the development of heavy industry and of energy and mineral resources. The USSR also provided development grants, technical assistance, the training of local technicians, plus the education (including scholarships) of large numbers of students from the Third World in USSR's academic institutions. It also included arms transfers, which brought political, and most importantly, economic advantages to the USSR (Kanet, 1981: 336-347). When it came to multilateral aid, however, the USSR consistently refused to get involved to any great extent in UN, WB, IMF, or IDA projects, declaring openly that these institutions were 'tools of American imperialism' (Holbik, 1968: 50-57).

After the ouster of Khrushchev, his successor Brezhnev moved away from the ideological paradigm that characterised his predecessors' policies towards the Third World. When Nixon succeeded Johnson, the relations between the two superpowers became more pragmatic and less dictated by ideology. This was the central principle of détente (Engerman, 2010: 42). Nevertheless, the USSR 1978 'Statement on African Policy' confirms the continuation of the development strategy towards the Third World. Together with other goals such as strengthening their relations with all African governments or aiding the continent's national liberation movements, the USSR declared its support to 'progressive programs adopted by African governments which had embarked on the noncapitalist path of development' (Papp, 1981: 70-71).

The competition between the US-led international development project and the communist one (USSR and China) was a rather uneven

contest. Between 1954 and 1970, the aid from the communist camp to the Third World amounted to only about a twentieth of the aid given by OECD countries (Waterlow, 1979: 118). From 1954 to 1966, US bilateral aid to the Third World reached \$42 billion, while USSR aid commitments reached £10 billion, of which only \$6 billion was delivered. The gap is even more striking when it comes to contributions to multilateral aid agencies: from 1950 to 1967, Western countries contributed with 96.2 per cent of the whole (Holbik, 1968: 27).

The idea that the opportunity of Third World states to develop had been wasted became widespread. Particularly in the US, a number of intellectuals and scholars placed the blame for this failure in the leadership and institutions of Third World states: Huntington (1968) argued that governments in the Third World 'simply do not govern'; Krasner (1985) noted that 'most developing countries have very weak domestic political institutions'; and Migdal (1988: 7-9) asked 'why have so many Third World states been so ineffective in accomplishing what their leaders and others had so eagerly expected of them.' Nevertheless, the view that it was the development project that failed the Third World was also widely supported.⁹²

A particular phase of the US-led development project that became the target of some of the most severe critiques is the first half of the 1980s, closely associated with the expression 'structural adjustment'. The 'Washington Consensus', as termed by the economist John Williamson in 1989, oversaw the replacement of the 1950s and 1960s theories of development (e.g. import-substitution industrialisation), by Reagan administration's neoliberal economics that promoted macro-stability, privatisation, and the liberalisation of foreign trade and capital movements (Arrighi, 2010: 31-32). In order to face 'monetary disorder', the economies of the developing countries had to be adjusted and trade balances corrected. The structural adjustment programs, through budgetary austerity and market liberalisation, conducted mainly through the IMF implied cuts in the public sector, subsidies, health, and education (Rist, 2008: 171-173). It was also in the 1980s that the WB and the IMF inserted a strong element of political conditionality in their dealings with developing countries (Zartman, 2005: 275-276). The Third World GDP from 1981 to 1985 grew only 1.4% per year, when compared with 4.9% growth rate from 1976 to 1980, and was

accompanied by the decline of US economic aid to the Third World, falling behind states like Canada, France, and Holland in 1983 (in terms of percentage of GNP) (Halliday, 1989: 65-68).

The paternalism, universalism, vested interests, and the strategy to influence politically the receptors of all kinds of economic aid for development, are evident in the competing models of development and state-building that the two superpowers attempted to export to the Third World. Yet, these relationships did not necessarily represent a denial of the underdeveloped/developing states' constitutional independence, even if the outcome was sometimes dependency and less autonomy. The governments of Third World states were receptive to the idea of economic development, which they believed to be their sovereign right, and attempted to take advantage of the superpower rivalry to negotiate in more favourable terms. A few Third World states were able to keep the two superpowers political influence at bay, while receiving aid from one or another. India, Indonesia, and Egypt are all examples of how the economic assistance from both superpowers did not generally translate into political and diplomatic alliances. On the contrary, in the cases of Korea, Vietnam, Taiwan, or the Philippines, economic aid was accompanied by deeper political relations (Bradley, 2010: 477).

7.5 Security Competition in the Third World

Successive US governments saw the problem of poverty and instability in underdeveloped states through the lenses of the Communist threat. The US interest in maintaining a favourable type of domestic order in Third World states was simultaneously the only way to foster the right kind of development, and a strategy to avoid the emergence of hostile, i.e. pro-Communist governments (Gurtov and Maghroori, 1984: 80). For the USSR, not associated with European colonial powers, many national liberation movements constituted an opportunity to establish alliances with the new governments of the recently independent countries. Yet the post-independence instability of those countries also constituted a threat, as it

could lead to the rise of pro-US governments. While nuclear weapons provided a crucial dissuading factor for direct confrontation, it pushed the two superpowers to confront each other's influence in the Third World (Engerman, 2010: 33).

Initially, the Indochina Wars (1945-1975) were a struggle for national liberation against the French imperial and colonial revival. The conflict entered the Cold War dynamics when the French played with US fears of Communist take-over, insisting that the USSR was behind Ho Chi Minh-led national uprising. This guaranteed the continuation of US financial support to the French war effort, in spite of US declarations of neutrality. Yet US fears were misplaced, as Stalin never paid much attention to the issue and saw France as the legitimate ruler of Indochina (Logevall, 2010: 282-283). Mao Zedong's Communist take-over in China, as well as the Communist-led rebellions that erupted in Indonesia, Burma, Malaya, and the Philippines, decisively transformed the nature of the issue in the US view. China soon started to support the Vietminh with arms, advisers, and training, at the same time than anti-colonial uprisings erupted in Laos and Cambodia. Thus, the Truman administration began to pressure France to hold on to Indochina, while providing France with military and economic assistance. A 1949 National Security Council report represented an earlier version of Eisenhower's 'domino theory', advancing the idea that if Vietnam was allowed to fall, many others would follow suit (Logevall: 2010, 284-288). Yet the key security concern of the Eisenhower administration in Southeast Asia was Laos, a concern that what was initially shared by the Kennedy administration. The threat of Communism led the US to send not only massive amounts of military aid, but also several hundred military advisers and Central Intelligence Agency (CIA) operatives, so that the Laotian government could successfully resist the Pathet Lao and its North-Vietnamese sponsor (Karabell, 1999: 206-209).

President Eisenhower subscribed to the containment policy designed during the Truman administration. For Eisenhower, US national security was more than just the physical protection of the homeland against the Communist threat, it was also about protecting the American way of life, which required the establishment of US influence across the Eurasian

heartland. One of the biggest challenges was the emergence of nationalist movements across the Third World, and the fear of Communist (both Russian and Chinese) takeover led it to frequently confuse nationalism with Communism. The CIA became a favoured tool to pursue the goal of Communist containment, through cost-effective actions that allowed the US administration to avoid the deployment of conventional armed forces. During Eisenhower's presidency, through covert operations, the US supported the toppling of left-leaning governments of Mossadegh in Iran (1953) and of Arbenz in Guatemala (1954), while failing in its attempts to do the same in Syria (1957) and Indonesia (1958) (McMahon, 2010: 288: 301). As it would be the case with other coercive interferences in the affairs of Third World states, the US covert role in these operations was decisive (Kinzer, 2006: 117-147). In the most significant use of US troops between the Korean and the Vietnam wars, President Eisenhower sent fifteen thousand Marines to Lebanon to support the US-client Lebanese government in the civil war (Karabell, 1999: 136-138).⁹³ Also during the Eisenhower administration, Vietnam was partitioned after the peace settlement signed in Geneva. (Logevall, 2010: 290) Subsequently, the US installed Ngo Dinh Diem – praised by Eisenhower's administration as South East Asia's 'miracle man' – in power in South Vietnam (Bradley, 2010: 483). A very similar operation of installing a puppet leader in power – and acting decisively to guarantee that was so – took place in the Philippines, where Magsaysay became president in 1953 (Kinzer, 2006: 151-152).

In January 1961, Khrushchev affirmed Moscow's backing of the 'wars of national liberation'. Almost simultaneously, Fidel Castro's toppling of Fulgencio Batista (1959) and the subsequent establishment of close ties between Moscow and Havana; the Communist-direct insurgencies against the US-supported governments in Laos and South Vietnam; and the instability in Congo; all created a strong sense of threat to which Kennedy reacted with his 'flexible response.' This meant that the US would respond to each threat posed by the USSR with a tailored counter-attack. The Third World was an absolute priority in Kennedy's Cold War strategy, as he expressed to US Congress in his first State of the Union Address (McMahon, 2010: 304-308).

In the context of Communist insurgency in Vietnam, the US increasingly worried about the way Ngo Dinh Diem ignored US advice. Diem protested that he did not want Vietnam 'to be a protectorate' (Kinzer, 2006: 156). The Kennedy administration supported the generals' coup that overthrew Diem (who was murdered) in 1963 (Bradley, 2010: 483). With Johnson, the US launched its first direct military attacks in North Vietnam. After his electoral victory, the Johnson administration escalated the fighting with more military support to the South, combined with massive aerial bombing campaigns in the North. By 1968, US' troops in Vietnam reached 536,100. The USSR and China responded by stepping up their military assistance to the North. With Nixon, the US gradually reduced troops in Vietnam as part of his 'Vietnamisation' of the conflict, while attacking North Vietnamese positions and allies in Cambodia and Laos, particularly through massive and highly destructive aerial bombing campaigns (Logevall, 2010: 294-300).

After the end of the war in Vietnam, the conflict in Cambodia continued. In December 1978, Vietnam invaded Cambodia with the goal of installing its own group of friendly Cambodian Communists in power, which happened two weeks after the invasion, with the establishment of the 'People's Republic of Kampuchea'. Following the Vietnamese invasion, the Khmer Rouge forces fled but later regrouped and organised a guerrilla campaign against the occupiers. The international dimension of the conflict soon came into play in another proxy war that opposed the USSR to China. While the USSR backed their Vietnamese ally and the new pro-Vietnamese government in Phnom Penh, China supported the Khmer Rouge with the goal of 'bleeding Vietnam in Cambodia' as Deng Xiaoping told 'astonished' Japanese prime minister (Rodman, 1994: 187-196, 454-456).⁹⁴

In Central America, the strategy of successive US administrations is well illustrated by a statement made by Kennedy in the immediate aftermath of the assassination of Dominican Republic's dictator Rafael Trujillo. According to Kennedy, 'there are three possibilities in descending order of preference: a decent democratic regime, a continuation of the Trujillo regime, or a Castro regime. We ought to aim at the first, but we really can't renounce the second until we are sure that we can avoid the third'. US officials publicly

declared that US policy towards the Southern neighbours was to promote security, prosperity, and democracy. Yet stability – or more precisely, the guarantee that the US had a close strategic relationship with state leaders – and not democracy (including elections, popular participation, respect for civil and human rights) was the priority of US policy in Latin America during most of the Cold War (Rabe, 2001: 48-49). In the late 1950s, in the face of popular uprisings, many Latin American regimes began to disintegrate, largely as a result of the dictators' internal repression, corruption, and failure to meet its populations' basic needs. The Eisenhower administration was quick to blame Communists for the uprisings, and proceeded among other things to arm the Cuban exile army training in Guatemala. Kennedy pursued Eisenhower's policies, and authorised the invasion of Cuba that resulted in the Bay of Pigs debacle. During the Kennedy administration, the question was 'which type of government and leader would be most effective in thwarting Fidel Castro'. Trujillo's close ties with Castro led the Kennedy administration to plan the former's overthrow by supporting the Dominican dissidents, who assassinated Trujillo on 30 May 1961 (Rabe, 2001: 48-66).⁹⁵

With the political rise of the anti-imperialist Allende in Chile, who was an admirer of Fidel Castro, Johnson's administration launched a covert campaign in support of Allende's political opponents. The CIA took the lead, spending millions of dollars with the latter, and cultivating close relationships with the Chilean military, including their training in US bases and millions of dollars in military aid. When Allende won the presidential elections in 1970, Nixon decided that 'an Allende regime in Chile was unacceptable to the United States', as later revealed by a covert operations specialist. Nixon wanted Chile to be an example for the rest of the region: 'Latin America is not gone, and we want to keep it. No impression should be permitted in Latin America that they can get away with this, that it's safe to go this way.' Thus, Kissinger and the CIA were in charge of overthrowing him. This goal was achieved in on 11 September 1973, when a group of military led by General Pinochet assaulted the presidential palace (Kinzer, 2006: 170-194). Between 1948 and 1990, successive US governments were involved in the overthrow of 24 governments in Latin America. As Coatsworth (2012: 220) explains, this involvement included four instances of 'direct use of US military forces', three

cases of 'CIA-managed revolts or assassination', and seventeen instances of encouragement of 'local military and political forces to intervene without direct US participation, usually through military coups d'état.'

Africa did not escape this obsessive security competition. In the early 1960s, the Americans were very concerned with the possibility of Lumumba, the Prime Minister of a left leaning government in recently independent Congo, to welcome USSR's influence. This concern was aggravated by the idea of the USSR gaining control of Congo's uranium reserves. With the US already using the strategy of covert action through the CIA (Halliday, 1989: 74-75), Lumumba was captured on December 1962 by Congolese military loyal to Mobutu who tortured and murdered him. Although the Kennedy administration continued Eisenhower's support for Mobutu, adding also words of praise for him, there was clearly an awareness within the Kennedy administration that they were 'hanging on to a bankrupt policy', in support for a Congolese regime that was 'obscurantist, arbitrary, primitive, totalitarian, wilful and irresponsible' in the words of US Ambassador George McGhee (Westad, 2005: 138-141). Lumumba's followers waged a counter offensive, and the country's richest province, Katanga, entered a war of secession (Gleijeses, 2001:71-72).

Just before Congo's independence, UN Secretary-General Dag Hammarskjold brought the issue to the Security Council and called it into session using, for the first time, Article 99 of the Charter which authorises the Secretary-General to 'bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security' (Parsons, 1995: 70-82). UN Security Council resolution 143 called for the withdrawal of Belgium troops, and authorised the UN Secretary General to provide the government of the Congo with military assistance, following a request by both the President and the Prime Minister of Congo. Resolution 145, adopted two weeks later, reinforced the UN Secretary General's hand, requested all states 'not to undermine the territorial integrity and political independence of the Congo', and considered that 'the complete restoration of law and order in the Republic of the Congo would effectively contribute to the maintenance of international peace and security'. The UN Force in the Congo (ONUC) became the biggest and most comprehensive

UN operation until the UN mission in Cambodia in 1992-1993 (Parsons, 1995: 81-82).

During the Cold War, the UN Security Council involvement in the Congo conflict constituted a notable exception to the rule when it came to Third World conflicts and related humanitarian disasters. In Cambodia, Angola, Somalia, Afghanistan, or Haiti, the UN Security Council only got involved towards the late 1980s-early 1990s. The five permanent members of the UN Security Council, as well as many other states, supported a strict interpretation of the UN Charter. Human rights violations and 'civil wars' were regarded as issues of exclusive domestic jurisdiction, and thus outside the scope of the UN Security Council and its Chapter VII-related powers (Parsons, 1995: 185; Weschler, 2004: 55).⁹⁶ The tripartite division of the Council into East, West, and Non-Aligned paralysed the Council and made consensus particularly difficult. This led to the General Assembly's greater involvement in security issues in detriment of the Security Council (Parsons, 1995: 246-250; Wallensteen and Johansson, 2004: 17-21). The self-appointed Permanent Members had reserved for themselves a high degree of political flexibility in order to avoid being 'obligated to act on security problems of lesser interest to them' (Luck, 2008: 62-63), giving credit to Morgenthau's interpretation of the Security Council as 'the international government of the Great Powers' (Krisch 2008: 133-134). During the Cold War, UN peacekeeping – an activity which was neither mentioned nor envisioned in the UN Charter – was more of an improvisation to respond to war between states (Sens, 2004: 142).⁹⁷

The superpower détente achieved by Nixon and Brezhnev aimed at stabilising the Cold War rivalry and breaking the arms race (Savranskaya and Taubman 2010: 134). An important event in this process was the Moscow summit (May 1972), with the signature of the SALT-I (Strategic Arms Limitation Treaty), which included 'the Basic Principles of Relations Between the United States of America and the Union of Soviet Socialist Republics', a code of conduct for dealing with crises in the Third World (Halliday, 1898: 14). Yet the superpowers were not willing to drop their obsessive security competition in pursuit of their global interests. Détente was a 'limited accommodation' that would allow the US and the USSR to pursue their

interests while provoking less tension internationally (Savranskaya and Taubman 2010: 134, 149). Numerous reasons determined the gradual erosion and later collapse of superpower détente (Njolstad, 2010: 135). With the unification of Vietnam under a Communist government and the success of the Angolan revolution, Brezhnev bolstered USSR's support for new insurrections in the Third World (Gaddis, 2010: 17). In the words of Georgi Arbatov, adviser to five General Secretaries of the Communist Party of the Soviet Union, 'after Angola, we went boldly down the path of intervention and expansion that we had beaten so assuredly. It led us through Ethiopia, Yemen, a series of African countries, and, eventually, into Afghanistan' (Bennet, 1999: 167). In response, Carter's vision that US foreign policy should reflect American values, including respect for human rights, was often compromised. A good example of this was Carter administration's military aid to the military regimes in Nicaragua, where the Sandinistas won in July 1979, and in El Salvador, where the military waged a brutal campaign against leftists (Mitchell, 2010: 74-86).

The Horn of Africa was also an important stage for the superpowers to wage their global competition for influence and allies. In terms of strategic value, Ethiopia and Somalia represented access to military facilities in the important Red Sea region. Siad Barre, the military dictator who seized power in Somalia (1969), was first supported by USSR, until his invasion of the ethnically Somali Ogaden province of Ethiopia – Ethiopia was establishing a 'special relationship' with the USSR. Moscow (and Cuba) stood with Ethiopia, which provided an opportunity for the US to support Barre (Lefebvre, 1991: 32-33). From Kennedy, to Carter, to Reagan, the US went down the road to arm Somalia heavily. As Lefebvre (1991: 22-29, 226) observes, while the implications of sending arms to a Somali government waging a counterinsurgency war and suppressing human rights was not a concern for the Reagan administration, what seemed to worry US policy makers was only the possibility of Somalia and Ethiopia fighting a 'protracted, proxy guerrilla war, while refraining from sending their forces across the border'. However, as long as the weapons were used to 'stabilise' the situation in Somalia – i.e. used for internal purposes only, whatever those were – Washington would not question their use. As a result, by the 1980s, two of the world's poorest

countries possessed two of sub-Sahara Africa's largest and best equipped military forces, and both presented some of highest government military expenditures in the world (Lefebvre: 1991: 26).

In Angola, the civil war involved three liberation groups from the decade-long war against the Portuguese, the Marxist-oriented Popular Movement for the Liberation of Angola (MPLA); the Angola's National Liberation Front (FNLA); and the National Union for the Total Independence of Angola (UNITA). The escalation of the civil war drew Americans and Russians (as well as Cubans, South African, Portuguese, Zairians, Zambians, and Namibians). The Angola civil war was a proxy war almost until the late 1980s, when Angolan regime backed by Russians and Cubans geared up in 1986 for a major offensive against UNITA, to which Reagan responded with the decision to provide Savimbi (UNITA's leader) with \$15 million of military aid, including Stinger antiaircraft missiles and TOW antitank missiles (Rodman, 1994: 165-77 and 371-391).

Once Reagan took office (January 1981), he proclaimed his hostility to Third World social revolutions, and built up the potential of US' intervention capacity – largely expanding a trend that had been reignited under Carter – against what the Reagan administration saw as radical states (Halliday, 1989: 52-74). The regimes in Afghanistan, Angola, Ethiopia, Grenada, Iran, Mozambique, and Nicaragua were considered hostile, and the plan was to take advantage of any potential instability (Coatsworth (2010: 2010). The leading element in Reagan's military strategy was 'Low Intensity Conflict'. Drawing from counter-insurgency thinking of the 1960s, it advocated the minimisation of US combat involvement (using Vietnam as the example not to follow), and direct US military activity in the form of assistance to indigenous forces (either governments or opposition), Special Operations Forces, and covert operations (Halliday, 1989: 52-74). The Nicaraguan Sandinistas were a particular obsession for the Reagan administration. Despite all the efforts to overthrow the Sandinista government, these were unsuccessful. Instead, the Nicaraguan government ended up accusing the Reagan administration, in the International Court of Justice, of violating international law (Coatsworth, 2010: 210-217). In Panama, however, the US intervention was successful in the removal of a manipulative General Noriega

from power, who was accused by the US of drug trafficking charges (Arnold, 1995: 178-181).

In April 1978, a group of Communist military officers overthrew Mohammed Daoud, Afghanistan's first president. Soon after the coup the Communist regime in Kabul settled a \$250 million agreement with USSR in weapons, plus the number of Soviet advisers skyrocketed from 350 to 7200 a year later. When the Kabul regime tried to impose a rigid centralised control over the tribes, a Muslim-led tribal rebellion broke out immediately all over the country, soon turning into a country-wide guerrilla war. In March 1979, with the deterioration of the political and security situation in Afghanistan, USSR troops invaded Afghanistan in December 1979. Among the justifications for the invasion were the attempt to avoid the collapse of the Kabul regime, and the fear (or paranoia) of Western penetration in Afghanistan. The invasion sparked a reaction from a variety of states (including the US, Pakistan, China, Saudi Arabia, and Egypt). The US responded with the imposition of sanctions, and the systematic covert program of military and other material assistance to the Mujahedin by the Carter Administration, a program later expanded by the Reagan administration (Rodman, 1994: 202-217), with arms supplies rising to sixty-five thousands tons annually by 1987. By some estimates more weapons had been poured into Afghanistan during the 1980s than to any other country in the world. As soon as the Russian troops withdrew, Afghanistan ceased to be on the US "radar" (Coll, 2005: 238-340), while UN data in the early 1990s depicted a dismal scenario of human misery and material destruction (Rodman, 1994: 357).

After more than a decade of confrontation – the 'Second Cold War' – the USSR and the US began to negotiate bilaterally, including discussions about Third World allies and opponents, and direct talks and negotiations on roughly a dozen Third World crises, including Cambodia, the Persian Gulf, the Horn of Africa, Angola, Chad, Western Sahara, Nicaragua, and Afghanistan. It took some time, however, for the USSR to definitely abandon their previous commitments to warring parties in the Third World, as was the case with their military assistance and direct participation (in some cases) in counter-insurgency campaigns pursued from 1985 onwards in Cambodia,

Afghanistan, Ethiopia, Angola and Nicaragua (Halliday, 1989: 9, 128, 150-151).⁹⁸

Beyond the Portuguese stubbornness in holding on to its colonial possessions, other European states that had formally relinquished their empires still intervened occasionally in the Third World, in cases where instability threatened their interests. France intervened in Gabon (1964) to restore M'Ba to power and thus ensure the privileges it enjoyed there – including a military base, and in Central African Republic (1979) to remove a defiant Bokassa from power and install a friendlier leader in power. Likewise, Britain intervened in Kenya, Tanganyika and Uganda in 1964, to suppress three army mutinies in its former colonies. These army mutinies had been influenced by another mutiny that took place a few days earlier in Zanzibar, where the Arab government was overthrown and replaced by a left-wing African government. Although the mutinies were partially about low pays and poor working conditions, there was also an anti-colonialist element to them (Arnold, 1995: 119-129).

The legacy of the Cold War when it comes to the instability that states like Afghanistan, Somalia, DRC, Angola or Cambodia experienced after decolonisation was much debated since the late 1980s. It was correctly pointed out the existence of many causes and no single explanation for such instability (Parsons, 1995: 245; Rodman, 1994: 527). Likewise, the wars in the Third World after 1945 – over 140 conflicts, costing over twenty million lives according to some estimates – were of several types. These included: (a) wars of colonial independence; (b) internal revolts against independent regimes; (c) interventions by the Great Powers; (d) borders wars and other conflicts between Third World states; (e) ethnic conflicts; and (f) intra-state or civil wars (usually with involvement by outside actors) (Halliday, 1989: 11-13; Arnold, 1995). According to Halliday (1989: 11-13), these wars 'had many causes and permit no single description' and, thus, they 'cannot be seen simply as products of the Cold War'.

While the causes of instability and conflict in the Third World do not lie exclusively in the unfolding superpower rivalry in those areas, it is consensual that the superpowers did much to aggravate the situation. Apart from the many cases of direct intervention, many wars in the Third World

were transformed into proxy wars by the superpowers' interference, which in many instances 'prolonged the length, the complexity, and the destructive character of the conflicts' (Engerman, 2010: 43). Moreover, the two superpowers supplied post-colonial states with vast quantities of arms and military training Holm (2001: 360). Not surprisingly, the list of major arms recipients during the Cold War matches the list of those states called 'failed' after the Cold War such as Angola, Chad, Ethiopia, Somalia, Liberia, Mozambique, Sudan, or DRC (Clapham, 1996: 156). In the words of Peter Rodman (1994) – White House assistant secretary to Henry Kissinger in the Nixon and Ford administrations and senior member and then director of the policy planning staff of the State Department under George Shultz during the Reagan Administration – opposing the other superpower's hegemonic plans in the Third World was, for both sides, 'more precious than peace'. In these debates, the superpowers have also been accused of promoting brutal regimes, in what Wheeler has called the 'moral bankruptcy of Cold-War international society' (Holm, 2001: 360). For example, Kissinger explained how supporting authoritarian governments while ignoring their brutal internal repressions was legitimate because several 'authoritarian' governments had evolved into democracies. Thus, according to Kissinger, a 'moral distinction' ought to be between 'totalitarian', i.e. Communist, regimes, who had never ever evolved into a democracy, and 'authoritarian' governments, 'which, with all their imperfections, are trying to resist foreign pressures and subversion and thereby help preserve the balance of powers in behalf of all free people' (Gurtov and Maghroori, 1984: 80).

7.6 Concluding Remarks

The years that followed World War II witnessed the demise of the colonial empires that Europeans and then other members of international society acquired coercively over centuries of expansion. In this context, the principle of state sovereignty ceased to be contingent or dependent of implicit or explicit conditions/standards set out by Europeans and peoples of European descent, such as race or political and economic backwardness. With the universalisation of the norms of self-determination and state sovereignty, the

Trusteeship System was rendered obsolete, given that it rested precisely on the claim that certain nations were backward and thus not yet ready for self-government. The leaders of Third World states were now the strongest advocates of the norm of state sovereignty and related principles of self-determination, autonomy, and non-interference.

Despite the demise of the backward claim, the concept of Third World underdeveloped states carried much of the same logic than its predecessor. It reflected the belief in modernisation, but also the old paternalistic conception of stages of progress, and the notion that the states to which the concept applied were incapable of fulfilling the responsibilities of sovereignty by themselves. It also reflected the concern and opportunity by those who used the concept – the two Cold War blocs – to change the underdeveloped states and place them in the path of economic development. In this regard, they ought to adopt one or the other model of political organisation and economic production. Yet, the newly independent states were able to shape the debates about development in international society and about their own status, as well as to counter the notion that they were defective polities. In particular, the rise of the concepts of developing and less-developed signalled the drive of the leadership of these states to develop economically and to modernise; the fact that economic development came to be seen as a right of sovereign states; and that economic underdevelopment was longer an obstacle to independence in legal terms.

While there were great divisions about the nature of economic development, what it should do and how it ought to be achieved, the two superpowers attempted to influence and shape the state-building processes of Third World underdeveloped states. The latter constituted a realm of competition between the superpowers' respective hegemonic visions of politics, economics, and global order. Instability, underdevelopment, and poverty became increasingly a matter of concern for numerous international organisations, and no longer only an issue restricted to the UN and its trusteeship system. In this context, the sway of the US-led arrangement for post-World War II international order is undeniable. Nevertheless, the governments of underdeveloped states were receptive of the idea of economic development, and welcomed the economic opportunities that

derived from this global competition. In this regard, and despite all the criticisms directed at aid and economic and financial assistance to Third World states, the concept of Third World underdeveloped states did not represent, in principle at least, a denial of their right to self-government.

The Third World was the stage of an obsessive security and strategic competition between the two superpowers. Underdevelopment, poverty, instability, and war in Third World states were faced as a threat by the US and the USSR. Both feared that the other side could advantage to influence events or install an allied government in power. Both sides often intervened, directly and indirectly through proxies, when there was a feeling of threat, while largely overlooking both the immediate and the long-term consequences of those actions to the states and societies in South America, the Caribbean, the Middle East, sub-Saharan Africa, Central Asia, and South-East Asia where those struggles unfolded. While the centrality of the principle of universal state sovereignty during the Cold War is undeniable, the principle was far from sacrosanct.

With the collapse of the USSR and the retreat of communism, the liberal internationalist project lost its main adversary. The US-led liberal international order created after World War II was now hegemonic. In this context, the concern about 'failed development' in Third World underdeveloped states expressed by Truman, Kennedy, and Kissinger among others, would give rise to the concept of failed states popularised by Madeleine Albright. The idea of defective polities had found its novel and most prominent contemporary expression.

8. Conclusion

One of the main purposes of university education is to escape from the Zeitgeist, from the mean, narrow, provincial spirit which is constantly assuring us that we are at the peak of human achievement, that we stand on the edge of unprecedented prosperity or unparalleled catastrophe ... It is a liberation of the spirit to acquire perspective ... to learn that the same moral predicaments and the same ideas have been explored before.

Martin Wight (1991: 6).

8.1 The Perpetuation of an Idea

By combining an ES historical-empirical approach with insights from international conceptual history, this thesis has shown that the idea of defective polities precedes the emergence of the concept of failed states, which is the contemporary manifestation of that idea. This idea and category has always been present in the history of international society.

The extent to which the political and philosophical legacy of Ancient Greece and Rome still influences contemporary international morality and law will remain subject of debate and speculation among scholars. However, it can be assumed that the category of the barbarian, a prominent one in Ancient Greece as well as in the Roman Empire, has travelled far in time. In Medieval Latin Christendom, the political system that preceded the rise of international society, the notion of civilisation and corresponding concept of barbarian were obfuscated by the preponderance of religion in all aspects of life. The Christians-infidels/pagans dichotomy was central as a legitimating element in the crusades, supporting the view that the right to exercise government was dependent on the possession of Christian faith. Moreover, the sense of superiority at the basis of the civilisation-barbarity dichotomy was often absent during this period, given the advance of Islam and what was commonly seen as a more powerful Muslim enemy. The concept of barbarian would reappear in the context of the Spanish and Portuguese

conquest and colonisation of the Americas to refer to the so-called Indians of the New World. Their status not only of non-Christians but of barbarians was used to justify the actions of the *conquistadores* and colonisers.

In a time when the Protestant imperial and colonial expansion rivalled with the Catholic one, the concept of savages was used interchangeably with barbarians. While both concepts necessarily implied a sense of moral superiority against which the barbarians/savages were judged, the concept of savages cannot be understood without acknowledging the emergence of the preponderant notion of *civilité /civility* in Europe. As with the concept of barbarian, the concept of savages represented the denial of the right of savage peoples for self-government, and was used as a legitimating element for imperial and colonial practices. Yet, in the sixteenth and seventeenth centuries, the mission or the duty of Europeans was increasingly less about imposing their religion on barbarian peoples, and instead about exporting European civilised morals, manners, and customs to the regions inhabited by barbarian and savage peoples.

The consolidation of international society in the eighteenth century coincides with the Enlightenment notion that European states formed the realm of civilisation and progress. Linked to this notion was the civilised-uncivilised dichotomy. The concept of civilisation embraced not only the civilising mission and the process away from barbarism/savagery and towards civility, but also the shared conscience that the European international society formed the realm of civilisation, the clear end point of the civilising process. The concept of backward emerged by the late eighteenth century-early nineteenth century. It reflected less a dichotomy and more a spectrum referring to the progress of humanity, in which all the uncivilised, semi-civilised, and backward peoples and political communities were included. Nevertheless, the concepts of uncivilised and backward still provided a powerful and influential justification for the civilising mission and the denial of self-government to those to whom the concept applied.

The concept of backward and the notion of stages of political and economic progress were central in the institutionalisation of trusteeship, first in the League of Nations Mandates System and then in its successor arrangement, the UN Trusteeship System. The status of backwardness was

the main justification to place those territories and peoples to which the concept applied under imperial rule with international oversight. With the changing political and moral context, the argument about the backwardness of the trust territories as well as those outside the trusteeship system became harder to sustain in international society. The project of transforming those territories into states in the image of the imperial centres gained ground, as the prospects of granting self-government to the backward peoples and territories became ever more likely.

In the years that followed World War II, international society witnessed the universalisation of the principles of self-determination and state sovereignty. The functions that the idea and category of defective polities could serve were limited by this novel normative context. Nevertheless, the emergence of concept of Third World underdeveloped states carried a similar logic to its backward predecessor. It suggested that the new states would not be capable of fulfilling the responsibilities of sovereignty by themselves. It reflected the old paternalistic notion of stages of progress, and the concern and opportunity of the developed, industrialised world to transform the underdeveloped states and place them in the path of economic development. The two superpowers attempted to shape and influence the state-building and economic development processes of the newly independent states, whose leaders in general welcomed the opportunity of economic assistance. While the norm of universal state sovereignty was central in this period of the history of international society, the principle was not sacrosanct. Both the US and the USSR interpreted instability in underdeveloped states as a threat that the other superpower could potentially take advantage of. Therefore, during the Cold War, the concept of underdeveloped states and related international practices still represented, in certain instances, the undermining of the sovereign prerogatives of underdeveloped states. This was evident in the context of the security competition between the two superpowers in the Third World.

With the end of the Cold War and the collapse of the USSR, the US-led liberal international order created after World War II was now hegemonic. The concerns about the scenario of 'failed development' expressed during the Cold War were transferred to the concept of failed states, which emerged

as the contemporary manifestation of the idea of defective polities. Any state associated with the category of failed due to developments within its borders could potentially become the target of a foreign/international intervention, especially if those developments were interpreted in international society as threat to international order, peace, and security. As a number of scholars have noted, underpinning the efforts to establish peace and rebuild failed states is a project driven by very specific ideas about how these states should be governed. While the dominant ideology behind these international practices is liberal internationalism and concomitant assumptions about man, politics, and society, the term 'liberal peace' ends up oversimplifying what is a far more complex picture. The merging 'interests and values' (Blair, 1999) of liberal internationalism include peace, democracy, humanitarianism and human rights, development, progress, order, security, and the pursuit of power linked among other things with the attempt to universalise these values and interests.

The primary goal of this study was not to compare different historical epochs. Nevertheless, part of the aim of the tracing this idea in the history of international society was to shed light on the nature of its most prominent contemporary expression, i.e. the concept of failed states. This exercise inevitably raises interrogations about the links between the present/the recent past and the distant one. In particular, it begs the question about the extent to which the post-Cold War international practices associated with the category of failed states represent a reproduction of old imperial practices. There are many parallels that can be made between the international practices surrounding the history of this idea and category. These parallels render the divisions between past and present; between what is commonly depicted in the literature as the old age of empires on the one hand, and the contemporary age of universal state sovereignty characterised by international interventions to rebuild failed states on the other; less clear.

As we have seen, the contemporary international/foreign interventions in the internal affairs of other political communities justified as being for the population's own good, for the sake of humanity, or in the name of international peace, order and security, are by no means a post-Cold War phenomenon. Today's rankings of failed and weak states, in which states are

listed according to a number of political and economic criteria, echoes very much the Enlightenment classification of humanity's stages of progress. The very notion of globalisation, used after the Cold War by policy-makers and scholars alike to justify the importance of the issue of failed states in international society, was present as far back as the nineteenth century in discussions about the imperial dilemmas of intervention. Likewise, the interpretation of misrule or instability within failed states as a threat to international order, peace, and security, is akin to the concern with instability, anarchy, and the decline of non-European political communities that animated imperialism at least since the eighteenth century. Yet another association is that between the old mission to carry civilised morals, customs and manners to the lands inhabited by barbarian and savage peoples, and the post-Cold War interventions in the so-called failed states to establish or maintain peace and rebuild states through very specific ideas of how these states should be governed. As exemplified by the imperial motivations surrounding the League of Nations Mandates System, peacekeeping, peacebuilding and statebuilding are, to borrow James's (1999: 154-155) felicitous phrase, international practices that predate their conceptualisation. The concept of nationbuilding in particular is not a distinctive post-Cold War characteristic, as it existed at least since the 1940s.⁹⁹

Within the literature on failed states, the notion that there is an evident qualitative difference between past imperial practices and the international/foreign involvement in those states categorised as failed is still predominant. The explanations advanced for the existence of this difference lie essentially in the perception or assumption that the contemporary peacebuilding and statebuilding operations are less mercenary when compared to the history of imperialism and colonialism. This assumption is shared even by current critics of these contemporary international practices (e.g. Paris, 2002: 637-638). In this perspective, these international practices are essentially for the population's own good, they are about 'building sustainable peace within societies ravaged by war and violent conflict' (Berdal, 2009: 11). Moreover, and probably unaware of the many similarities between today's peacebuilding and statebuilding activities and the old civilising mission, the international organisations involved in these activities,

especially the UN, are mostly seen as neutral. For example, Jackson and Rosberg (1982: 20-22) referred to international organisations as 'post-imperial ordering devices.'

The similarities between the recent past and the more distant one matter not only because the history of imperialism and colonialism is a troubling one, especially when viewed through many of today's moral standards. It can also reveal important aspects about the nature of the normative framework of contemporary international society, and in particular its central norm, i.e. state sovereignty. As addressed in the introduction of this thesis, the prerogatives of the universal principle of state sovereignty are, at least in principle, the antithesis of the notion of empire. However, if simultaneously with the norm of state sovereignty, there is also a norm of foreign/international intervention and interference in the affairs of sovereign states by a liberal hegemonic core (as discussed in chapter 1), then how do we make sense of the normative framework of contemporary international society? There are a few possibilities, not necessarily mutually exclusive. One is that contemporary international society is morally deficient. It professes to live by certain moral and legal standards and principles, only to constantly violate them. Another possibility is that international norms and rules such as state sovereignty matter, but the most powerful members/the liberal hegemonic core of international society often use those norms and rules as instruments in the pursuit of their interests and agendas, often of an imperial nature. Yet another possibility is that the core notion of state sovereignty as a state that is constitutionally independent has remained constant, whereas the regulative rules of sovereignty have changed over time, and are essentially contested.

The answer to this question is a mixed one. The more powerful members of international society are much more prone and have more flexibility to use norms and rules to justify and legitimise actions and practices that are controversial, of imperial nature, or that clash with other norms and rules in international society. This seems to have been the case with liberal hegemonic core of international society, which since the end of the Cold War has revived the idea of contingent sovereignty and pushed for the interpretation that the principle of state sovereignty carries not only rights but

duties and responsibilities towards both international society and the states' own citizens. In other words, state sovereignty is conditional, depending on the ability of states to fulfil those duties and responsibilities. This highlights another important characteristic of international society: the fact that, beyond the core notion that the principle of state sovereignty refers to the constitutional independence of a state, there is often little consensus in international society about the rights, duties, and responsibilities of sovereign states. As discussed in this thesis, it does not follow necessarily that norms and rules, especially state sovereignty, explain international behaviour of an imperial nature, or that those norms and rules are the cause of such behaviour. We will return to this point later in this conclusion.

8.2 An Evolving Normative Context

Despite looking at the perpetuation of the idea of defective polities in international society, the meta-theoretical approach of this thesis was sensitive to the issue of change. In particular, we saw how this idea and category was marked by evolving historical conditions in which morality, norms, principles, and rules changed over time. This evolving normative context is reflected in the changes in the concepts that expressed that idea and category. For example, the gradual demise of the central influence of Christian religion in Europe's political life was accompanied by a shift from the concepts of infields/pagans, based essentially on their non-Christian status, to the concepts of barbarians and savages, which came to reflect first and foremost the Europeans' ethnocentric vision of these peoples' morals, customs, and values. As the norm of state sovereignty gained ground in European-centred international society, and Europeans states came to see themselves as occupying the realm of civilisation, the concepts referring to defective polities were less about the barbarian/savage nature of peoples, and more about the uncivilised or semi-civilised status of political communities. As these dichotomies increasingly gave place to a spectrum, in which all human political communities were included regardless of their stages of progress, defective polities were increasingly referred to as backward. The concept of backward states appeared in the context of the

institutionalisation of trusteeship, and the rise of the notion that the only alternative to empire was self-government by sovereign states to be built in the image of the imperial centres. With the universalisation of the principles of self-determination and state sovereignty, the distinctions between states in international society became first and foremost economic. This was reflected by the concept of Third World underdeveloped states, closely associated with the influential modernisation theory, while the political (including racial) preparedness or unpreparedness for self-government was relegated to a second plan.

Probably the most striking change in international society since its formation in Europe is its universalisation. This sets post-World War II international society apart from previous periods of its history. This universalisation of the sovereign state is a result first and foremost of European imperialism and colonialism. Nevertheless, the norm of state sovereignty, one that was used as a legitimating argument to deny non-European peoples their right to self-government, was later an instrument with which non-European peoples made their way to independence and self-determination, and demanded equal membership of international society. To note that the norm of state sovereignty is universally adopted by all internationally recognised political communities is different from arguing that it is universally accepted by all societies. To understand if this idea of state sovereignty is contested within states that have a recent history of instability such as Afghanistan, DRC, Pakistan, or Yemen, would be the subject of another thesis. However, the great extent to which this idea about how human groups should organise themselves politically is shared in international society is certainly a novel characteristic of world politics.

A number of moral and normative factors underpin the feeling of legitimation that characterises international interventions in those states associated with the category of failed after the Cold War. One is precisely this general consensus in international society surrounding the sovereign state, almost as the ultimate political form around which human groups should be organised. On the contrary, as various scholars have noted (e.g. Doornbos, 2002: 807; Gourevitch, 2004: 257; Keen, 2008), ideas of statelessness, of anarchy and chronic instability within states, are interpreted

as instances of deviation or even aberration which cannot be allowed to subsist. Related to this is the notion that states not only have rights in international society that derive from their sovereign status, but they have also duties that stem from their membership of international society. Thus, developments in the internal realm of states that can potentially be interpreted as a problem for international society, such as civil wars, humanitarian crisis and refugee flows, or even the existence of terrorist safe havens, justify foreign/international involvement to address those developments. The contemporary international peacebuilding and statebuilding missions in Africa, the Balkans, or Central Asia, that involve a multiplicity of actors, from Great Powers and international organisations to NGOs and private contractors, seek essentially to take temporary hold of the sovereign prerogatives of states in order to stabilise and strengthen the institution of state sovereignty. Thus, it is argued that this idea and category that has always animated imperialism and colonialism in international society, is today characterised by a 'reluctant' imperialism (Mallaby, 2002). The words of Cooper (2002) illustrate quite well this notion: 'All the conditions for imperialism are there, but both the supply and demand for imperialism have dried up. And yet the weak still need the strong and the strong still need an orderly world.' Likewise, in one of the most prominent books about the topic, Chesterman, Ignatieff and Thakur (2005: 383) talk about the need to think about how state building efforts can reproduce 'the better effects of empire without reproducing its worst features.'

Regardless of the novel and evolving normative context, a number of aspects reinforce the notion that there is continuity of practices of imperial nature, rather than a break with the imperial past. Even if one accepts that today's practices of intervention, in the name of international society and for the sake of strengthening the institution of state sovereignty, are not only temporary but less mercenary when compared to previous eras, one cannot but notice that the drive towards uniformity and universalism is at least as great today than it was during the old imperial age. There is an inversely proportional relation between decolonisation and the rise of the view, present at least since the era of the League of Nations Mandates System, that the sovereign state should be the one and only constitutional alternative to

empire. In other words, the universalisation of the principle of self-determination and the recognition of the right of all nations to self-government were accompanied by the idea that free political communities had to be sovereign states. According to this logic, exceptions to this rule justify imperialism for the sake of state sovereignty. Today, this drive towards uniformity is not a one-way process, in the sense that formerly subjugated peoples have, without much of an alternative to begin with, adopted the sovereign state model as their own. However, there are not only pressures of universalism and uniformity regarding how political communities should be organised. As a number of scholars have noted, over the last two decades there was also a clear liberal hegemonic ideology, dominant in peacebuilding and statebuilding missions. This ideology of the 'new liberal imperialism' (Cooper, 2002) is characterised by very specific ideas about how failed states should be governed. It promotes the importance of a particular type of internal order, based on peace and stability as well as democracy, elections, rule of law, human and civil rights, and economic development.

Related to this last point, another trait that has always characterised this idea and category is a certain inability of international society to coexist with and accept difference. As early as Ancient Greece, the tendency to read other peoples customs and manners according to ethnocentric conceptions, instead of an ability to understand different values and customs naturally, was observed by Plato. In international society, the propensity to see different peoples and political communities, especially when that difference is interpreted as weakness, through ethnocentric standards has been noted across time by a number of philosophers, intellectuals, and scholars, from Montagne and Rousseau to Todorov, Duffield, Paris, or Richmond more recently. In the history of international society, this characteristic has increasingly animated the drive towards changing the barbarians, savages, uncivilised, backward, underdeveloped, and failed states in the image of the civilised/civilisation, of the realm of progress, of the developed world, of the stable and wealthy democratic states.

Despite the evolving normative context, another aspect that emphasises the notion of continuity is that this idea and category, in its various expressions, has always generated debates and raised questions

about the moral righteousness of the category itself and the international practices associated with it. This was the case even before the emergence of international society. In Ancient Greece, Plato and Aristotle held differing views on the merits of the concept of barbarian. The issue of the rights of the infidels, both within and outside Christian lands were subject of some of the most important political, moral, and theological debates during Medieval Latin Christendom. The Spanish overseas expansion was marked by a heated controversy between the likes of Vitoria and Sepúlveda about the ability for self-government and rational/irrational nature of the barbarians of the New World. During the European Enlightenment, some of its major figures held different perspectives about the benefits/evils of the process of exporting European civilisation, as well as about the rights of the so-called backward/uncivilised. At the height of the British Empire, Burke's arguments about a moral obligation to protect contrasted with Mill's notion that the duty of Europeans was to civilise the uncivilised/backward and thus bring them into the realm of civilisation. In the context of the institutionalisation of trusteeship, Woolf envisioned a system that would soon confer the backward their right to self-government, while Smuts saw the emerging arrangement as an instrument that could justify the perpetuation of the dominance of white races over the non-whites. During the Cold War the concept of underdevelopment and corresponding status was subject to the scrutiny of those to whom it applied, who were now recognised as members of international society. In post-Cold War international society, the motives and ideologies behind the projects of fixing failed states were questioned by some segments of international society, as was the case for example of sovereignty as responsibility. The nature of the idea is and it has always been a contested one.

8.3 The Mirror of International Law

If this idea and category has always been a contested one, then how can we comprehend its perpetuation, even in the context of the universalisation of the principles of self-determination and state sovereignty. In this regard, this thesis addressed the claim, advanced by a number of scholars, that

international law and the doctrine and norm of state sovereignty in particular, have played a decisive role in the perpetuation of this idea and related international practices. In this perspective, international norms and rules matter, but they are first and foremost an instrument that the most powerful members of international society use in the pursuit of their interests and often imperial agendas.

We have shown that international law does not explain the existence of such idea and category and related international practices. First of all, this idea and category is not a product of the norm of state sovereignty, as it preceded the rise of international society in Europe. It was present in Ancient Greece, in the Roman Empire, and in Medieval Latin Christendom. Both important figures of the church such as Pope Innocent IV, as well as a number of just war theorists that included St. Augustine and St. Thomas Aquinas addressed the issue of relations between Christians and non-Christians, based not only on the teachings of theology and canon law, but also on natural law precepts. Different interpretations arose from their considerations, some more instrumental in their intentions than others. While Innocent IV's reflections on the matter were a clear endorsement of the notion that only Christian peoples were rightfully entitled to self-government, the legacy of just war theorists as well as their motivations is far more complex. Their intention was not to justify particular policies of expansion, but to provide a normative framework that could contribute to more just and peaceful relations between all humans.

Without a notion of the context in which Vitoria developed his thoughts about international politics and morality it is fairly easy to interpret his work as an attempt to provide the Spanish monarchs with a set of legitimating arguments for their conquests in the New World, or to appease their moral unease about the brutalities being committed by the Spanish *conquistadores* and colonisers. However, there are plenty of indications that Vitoria was himself moved by a moral unease regarding the already unfolding events in the Americas, which he believed to be an extremely unjust situation, and a gross violation of universal natural rights. He rejected every single argument that had been or was being used by his fellow Spaniards to justify the subjugation of the barbarians of the New World. He attempted to

develop a framework of principles to guide the conduct of human beings, as was the case with Aquinas who greatly influenced Vitoria. Given that the conquest of large territories in the Americas was an established reality, he argued that the Indians had to be treated as subjects of the King, and not as animals. This is why he reflected on the principle of trusteeship. He called for the protection of the Indians against the brutalities committed by the *conquistadores* and colonisers, and argued that the Indians also had rights, namely the right to own property. He also explored the possibility that, in certain conditions, limited intervention in Indian affairs could be morally justified only to address a circumstantial situation, such as human sacrifices and the killing of innocents, although he ended up expressing serious doubts about the moral grounding of his own thoughts in this regard. The apparently limited effects of his ideas when it comes to the protection of rights of the Indians does not counter the notion that he was indeed a defender of their rights and very critical of the Spanish actions in the Americas. Thus, Vitoria's legacy in relation to European imperialism and colonialism is that of a moral call for restraint, and the acknowledgement of the rational nature and rights of the non-Christian peoples, irrespective of their religious beliefs.

In a time when international society was in its formative period, Grotius' *jus gentium* conception was much more than an attempt to systematise a body of rules or principles that could regulate relations between states. While Grotius' reflections on a natural law of nations did indeed refer to a pre-existing reality, both within Europe and beyond it, his effort was essentially one of developing a theory of morality, sensitive to difference, that could provide guidance to various actors in the international realm, including states, individuals, and private enterprises. While his chief concern was the issue of war, when it comes to relations between Europeans and non-Europeans, Grotius drew first and foremost from Vitoria. He believed that non-Europeans and non-Christian peoples, classified as barbarians and savages by many of his contemporaries, were rational beings and were rightfully entitled to self-government. He thus countered a prominent justification of the United Provinces' subjugation of various non-European peoples they encountered. Far from being an apologist of imperial domination, Grotius was concerned about the events he reflected upon. It

was not his intention to provide a range of legal or moral arguments to justify or legitimise imperialism and colonialism, and it is difficult to envision how his legacy could have been responsible for the later division between the realm of civilised states and the non-European uncivilised peoples and political communities, as argued by Keene (2002). His conception of international society naturally included an inner circle of Christian nations, but the law of nature and *jus gentium* encompassed the outer circle of non-Christian communities on the basis of sovereign equality. Thus, instead of 'the colonial origins of international law' (Anghie, 1996; 1999; 2005), it is far more accurate to talk about the anti-imperial origins of modern international law.

The emergence of the standard of civilisation in international law, particularly in the nineteenth century, was without doubt highly political and discriminatory, as it was influenced by European racism and ethnocentrism. Moreover, it was used by European empires as a legitimating tool for the conquest of uncivilised territories, and to deny the latter the right to self-government under the claim that only civilised states possessed such right. However, it is greatly misleading to read the emergence of the standard of civilisation in nineteenth century positivist international law as a cause of the division between civilised and uncivilised states and respective European discriminatory views and behaviour towards non-Europeans. As argued, the standard of civilisation in international law represents the systematisation of a long-standing practice in international society, which then assumed an explicit juridical character. Moreover, this practice reflected the consolidation in the eighteenth century of the shared notion that European international society formed the realm of civilisation, the clear end point of the civilising process. Thus, the emergence of the standard of civilisation in international law as a result of the positivist turn has to be understood as an expression of wider changes going on in Europe's political and philosophical scene, which naturally reached the science of law as well.

The principle of trusteeship re-emerged in the context of the actions of the British East India Company. It was argued that, before the institutionalisation of trusteeship in the League of Nations Mandates System, there was a difference between the principle of trusteeship and the norm of the civilising mission. In this regard, what we called 'the spirit' of trusteeship

was about the protection of the native inhabitants and their customs, as well as the accountability and obligations of colonialists against the company's belligerence and misgovernment, and not about justifying the subjugation of what many in Britain saw as uncivilised peoples. The notion that the Berlin Conference represents the internationalisation of trusteeship amounts to a myth. Instead, the Conference worked as a collective endorsement, by international society, of the civilising mission in Africa. In this period, the principle of trusteeship was nurtured essentially within the Anglo-saxon world. The principle was institutionalised with the League of Nations Mandates System, and thus became a norm in international society. The institutionalisation of this principle represented more than an attempt by pro-imperialists to legitimise the civilising mission, related with the still powerful colonial ambitions in international society and the fear that the backward nations pre-mature independence would result in chaos. It was also more than an effort by the critics and sceptics of empire to protect the backward peoples and place their destinies under the scrutiny of international opinion and international law. It was a complex compromise that represented conflicting ideas and motivations at play in international society, not only between different views regarding the status of backward peoples and nations, but between conflicting visions about empire and its future. In this context, the idea and principle of trusteeship and the civilising mission became part and parcel of the same project institutionalised in the Mandates System. The re-institutionalisation of trusteeship in the United Nations Trusteeship System represented the claim that the backward were still not yet ready for self-government, and it was largely shaped by the strategic interests of the Great Powers. Yet it also embodied the notion that independence would have to follow soon. This higher prominence of the promise of self-government in the Trusteeship System when compared to its predecessor reflects the considerable ground that the idea of self-determination had gained in the inter-war period. It also meant that the argument about the backward status of certain peoples or political communities was under increasing scrutiny and ever harder to sustain in international society.

In the years that followed World War II, the principle of state sovereignty ceased to be contingent or dependent of implicit or explicit conditions/standards set out by Europeans and peoples of European descent, such as race or political and economic backwardness. Despite the demise of the backward claim, and the universalisation of the principles of self-determination and state sovereignty, the concept of Third World underdeveloped states carried much of the same logic as its predecessor. However, the functions that the concept served were shaped and limited by the novel normative context in international society. The leaders of the newly independent states were able to shape the debates about development in international society, and counter the notion that they were not capable of or suitable for self-government. Those peoples and political communities that were hitherto considered backward were now making use of their sovereign character to shape the major debates in international society regarding their own status. The rise of the concepts of developing and less-developed signalled: the drive of the leaderships of these states to develop economically and to modernize; the fact that economic development came to be seen as a right of sovereign states; and the idea that economic underdevelopment was no longer an obstacle to independence in legal terms. While the centrality of the principle of universal state sovereignty during the Cold War is undeniable, the principle was far from sacrosanct. In this regard, the concept of Third World underdeveloped states did involve violations of sovereign rights, in the context of the global security rivalry between the two Cold War blocs.

From all this it can be concluded that international law and the norm of state sovereignty in particular are not, for the most part of the history of the idea and of defective polities, the cause behind its perpetuation in international society. The history of the principle and doctrine of state sovereignty and its evolution is indeed closely linked to the history of the imperial expansion of international society. But it does not follow from this that state sovereignty provided the conditions for the existence of this idea and category. In some periods, for example when the standard of civilisation was reified by positivist international law, the latter did work as a legitimating element for the discriminatory views and imperial and colonial practices of the members of international society. However, the standard of civilisation in

international law did not produce these practices, it systematised a long-standing behaviour and reflected the already existing view that Europe was the realm of civilisation in contrast with the uncivilised nature of many or most non-Europeans. In the case of Vitoria, his natural law of nations' conception was a non-discriminatory one. It countered many of the imperial arguments used to justify the subjugation of the barbarian inhabitants of the New World; it called for the protection of the Indians and the respect for their rights; and it raised questions that placed the imperialism and colonialism of his time under moral scrutiny. Much the same can be said about Grotius', who was also worried about an international reality that preceded him and that marked the era in which he lived, characterised by war and empire. His universal natural law principles emphasised that non-Christian or non-European peoples, be they barbarians or savages, could not be denied their right to self-government. While the institutionalisation of trusteeship was a justification for the continuation of alien rule and the civilising mission, it also represented the effort by the critics and sceptics of empire to protect the backward peoples and place their destinies under the scrutiny of international opinion and international law. Moreover, it reflected the commitment that the promise of self-government would be eventually fulfilled. During the Cold War, the principle of universal state sovereignty was central in the workings of international society, and was central in the process that led to the demise of the backward claim.

During the last two decades, the relationship between the principle and doctrine of state sovereignty and the category of defective polities, expressed through the concept of failed states, has been a close one. In particular, the powerful notion of sovereignty as responsibility and especially as contingent, as defined by the liberal hegemonic core of international society, echoes the nineteenth century standard of civilisation. Then as now, those who do not meet the expected criteria are susceptible of being denied their right to self-government. While this move was certainly important over the last two decades as a justification and legitimating element in the international interventions and involvement in the so-called failed states, the view that the category of failed states is explained by the instrumentality of international law is a gross oversimplification. To talk about causality in a very complex international social setting inevitably leads to this

outcome. However, if one ought to talk about causes, beyond the role of power, one should look at prior sets of values and beliefs in international society, including ethnocentrism, the preponderance of the values of liberalism and democracy, different views about the status of human beings, as well as differing perspectives about the moral purpose of state.

Appendix

Table 1

Mandatory Powers	Mandated Territories
Type A Mandates (former territories of the Turkish Empire)	
British Empire	<ul style="list-style-type: none"> - Mesopotamia (independent Kingdom of Iraq in 1932); - Palestine; - Transjordan (independent in 1946).
France	<ul style="list-style-type: none"> - Syria (independent in 1944 and Syria-Lebanon separation).
Type B Mandates (former German colonial possessions)	
British Empire	<ul style="list-style-type: none"> - Tanganyika (later a UN trust territory until independence in 1961. Today's Tanzania); - Kamerun (split with France; later a UN trusteeship territory); - Togoland (split with France; later UN trusteeship territory).
France	<ul style="list-style-type: none"> - Kamerun (split with the United Kingdom; later falling under UN trusteeship);

	- Togoland (split with the United Kingdom; later UN trusteeship territory).
Belgium	- Ruanda-Urundi (later under UN Trusteeship together with Belgium Congo; independent in 1962 and Rwanda-Burundi separation).
Type C Mandates	
British Empire	- Nauru (administered by Australia).
Union of South Africa	- South-West Africa (later UN trusteeship; today's Namibia).
Australia	- All German islands in the Pacific south of the Equator, including New Guinea (excluding the German Samoan Islands).
New Zealand	- German Samoan Islands (Western Samoa).
Japan (replaced by the United States)	- All German islands in the Pacific north of the Equator, including Caroline and the Marianas.

Sources: Hall (1948: 295), Bain (2003: 102-107), Caplan (2008: 563).

Notes

Introduction

¹ Wilde (2007: 21-26) defines 'territorial administration' as 'a formally-constituted, locally-based management structure operating with respect to a particular territorial unit, whether a state, a sub-state unit or a non-state territorial entity', performed by one or more international actors rather than states, and that have an "alien" identity when compared with the identity of the territorial unit involved' (e.g. the United Nations).

² The idea that this category obscures more than it illuminates (Doornbos, 2002: 799-805) has been repeatedly pointed out in the literature (e.g. Gourevitch, 2004; Boas and Jennings, 2005: 385; Patrick, 2007: 645-647). There have also been calls for a more critical approach to the notions of chaos and anarchy within states. The point made by a number of scholars, (e.g. Doornbos, 2002: 807; Gourevitch, 2004: 257; Keen, 2008), is that there might be more subjectivity in the idea of failure than what is normally accorded to in the literature. In such situations there is not simply chaos/anarchy/statelessness. Political life goes on, there are political forces pursuing their own objectives.

³ The difference between rouge states and failed states is that while the latter refers to certain internal characteristics of the state, the former describes foreign policy behaviour (Bilgin and Morton, 2002: 55-56). It is based on this crucial difference that the concept rouge state is left out of this study.

1. Failed States: The Clout of a Concept

⁴ The WB and IMF policies were often target of heavy criticism for a variety of motives, including the promotion of reforms based on market liberalisation (e.g. Bird, 1996; Goldman 2005; Hartzell et al, 2010).

⁵ See Winn and Lord (2001) on the EU's development of a capacity/role in peacekeeping, peace-enforcement, and crisis management; on the idea of the EU as a 'civilian power' see Hill (1998); on the normative principles promoted by the EU, including peace, freedom, democracy, human rights, rule of law see Manners (2008). About the EU's involvement in Bosnia and Kosovo's crisis see Lucarelli and Menotti (2006), Gross (2007). For the EU's administration of the municipality of Mostar in central Bosnia see Winn and Lord (2001: 74-82).

⁶ For a good overview of NATO's adaptation to crisis management and peace operations see Yost (1998). Regarding NATO's presence in Bosnia and Herzegovina see Sjursen (1998), Winn and Lord (2001). About NATO's intervention in Kosovo, including the debates about legitimacy and legality, see Wheeler (2000: 262-276). See also the statement issued after the alliance's Copenhagen Ministerial Session in June 1991, the 'Brussels Summit Declaration' (1994), and the report titled 'Follow-on to the 1993 Athens Report on Cooperation in Peacekeeping' (1995).

⁷ See UNDP (1994: 24).

⁸ Smith (2006: 38-40, 45) notes how the EU foreign and security policy after 9/11 shifted from foreign policy understood as diplomatic coordination towards security policy. After the adoption of the ESS, a number of other important documents followed suit, including the European Neighbourhood Policy in 2004, and the EU Counter-Terrorism Strategy in 2005 (Biscop 2008: 2; Biscop and Anderson, 2008: 7).

⁹ Caplan (2002: 9-14) notes that the term international administration encompasses a variety of 'experiences', historical and contemporary, and shall not be confused with 'the expansion of traditional peacekeeping operations to embrace a variety of 'peacebuilding' activities'. Although ITA and peacebuilding do reflect the same international concerns, according to Caplan, 'no international field operation has been vested with as much executive, legislative and judicial authority as some of the international administrations that have been established' since the mid-1990s. In its present form, ITA is a rather informal arrangement, in the sense that 'it has no specific UN mandate', and 'no dedicated bureaucracy to support it' despite normally enjoying of the UN Security Council backing, and thus is a rather 'ad hoc innovation'.

2. A History of An Idea in International Society

¹⁰ See also Bull and Watson (1984: 1). Institutions beyond its formal sense (e.g. international organisations) will be treated here as established practices, norms and standards of behaviour. As Holsti (2009: 136) puts it, institutions in the ES can be broadly defined as 'established patterns of action that contain normative elements.'

¹¹ The explicitly normative strain is no better represented than in the debate between pluralists and solidarists on the values of pluralism, diversity, independence, and international order on the one hand, and the moral obligation to intervene and the values of cosmopolitan justice on the other. As Linklater and Suganami (2006: 5) note, the pluralism-solidarism debate was introduced by Bull (1966). See for two important examples of contributions to the debate, Wheeler (2000) and Jackson (2000). The rather polarised and dogmatic nature of this debate has been object of criticism from a number of ES scholars (Almeida, 2003; Buzan, 2004a: 21, 49; Linklater and Suganami, 2006: 62).

¹² Suganami's (1988) article is a response to Halliday (1987: 217-219). The CS has also contributed to these debates. Skinner's (1989b: 102-103, 122) analysis on the evolution of the concept of state demonstrates how common it has been to various authors the usage of the word state to refer to an apparatus of government.

¹³ The concept of state remains a disputed one IR and other social sciences (Hobson, 2003). The most common approaches to conceptualise what a state is can be grouped into: (a) the social contract tradition, identified with authors such as Locke, Hobbes, and Rousseau; (b) Weber's definition of 'state' as a 'corporate group' that 'claims to hold the monopoly of the legitimate use of force within a specific territory'; and (c) the juridical statehood approach, a definition of state that includes a demarcated territory, a permanent population, an effective government, and the capacity to formally relate with other states, according to the 1933 Montevideo Convention (Einsiedel, 2005: 14-15). These three ways of conceptualising what the state is all reflect different aspects of the practice of statehood. The social contract view, drawn from the liberal tradition, represents the element of the population's consent in the legitimacy of the government or ruler, as well as the idea that the existence and preservation of the state is at least a necessary condition for the realisation of any value (Buzan, 1991: 39-40). Weber's definition focuses on the state's role in managing violence and security. In this regard, Tilly's (1990) *tour de force* shows the long historical process through which those involved in the construction of European states gradually monopolised the coercive capabilities away from every other actor within their territories. While Tilly's is essentially a history of a coercive process, Weber emphasises the issue of legitimacy (Thomson, 1994: 7). The matter of organised violence echoes Hobbes's focus on the provision of security as the most important moral function of the state (Van Creveld, 2004: 406; Sorensen, 2005: 81). Regarding the juridical approach, Crawford (2006: 31) notes how 'there is no generally accepted and satisfactory modern *legal* definition of statehood.'

¹⁴ Jackson's (2009) position represents a departure from his earlier (1990: 5) view, in support 'to the institutionalist argument that rules and laws – including international law – can have

substantial independent effects on political life.' Clark (2005; 2007) is another member of the ES that tends to emphasise the causal effects of norms and rules in the behaviour of states.

¹⁵ See Bull (1977: 139-140).

¹⁶ Jackson (1999a: 425) defines the internal aspect of state sovereignty as 'a government of a territory' that is 'supreme within its jurisdiction.' This idea of jurisdictional supremacy or supreme authority echoes common usage and is associated in the literature with the political theory of Bodin, Hobbes, and Rousseau.

¹⁷ Contrary to the assumption that the 'scientific turn' in IR separated the discipline from history, Hobson and Lawson (2008: 415-417) rightly note that international history never disappeared from the radars of IR scholars. From the early days of the IR discipline, not only international history but the philosophical and methodological questions surrounding the study of history were a matter of concern for scholars. Among the most important contributions is Carr's (1961) critique directed at the 'liberal historical establishment' and what he saw as their strict division between past and present (Wilson, 2001: 124). Carr (1986: 81-82) criticised the tendency to speak about 'interpretation' and the rejection of causal approach to the study of history. For him, 'the study of history is the study of causes' by recalling previous attempts of historians and philosophers of history to 'organize the past experience of mankind by discovering the causes of historical events and the laws which governed them.' It was this type of approach to history that led Popper (1957: 3) to criticise the assumption that the aim of the social sciences concerned with the study of history is to discover the 'rhythms, patterns, laws, or trends that underlie the evolution of history.'

¹⁸ For theory of speech acts see Searle (1969; 1995), Skinner (1971), Austin (1975).

3. On Infidels, Pagans and Barbarians

¹⁹ The French, Catalan, and Aragonese expedition that in 1063-4 recovered Barbastro in Spain has also been pointed out as the first crusade (Riley-Smith, 1977: 74-75). By the end of the fourteenth century, the crusading enterprise started to decline for a number of reasons, including the Great Schism and the war between England and France. Pope Gregory XIII's bull to support the Spanish war against England in the 1580s is generally considered the last formal crusade (Horowitz, 2009: 179-185).

²⁰ On Medieval Europeans' views of Islam see Southern (1962), Daniel (1993).

²¹ See Russel (1975) and Barnes (1982) for just war in the Middle Ages, including other members of this tradition beyond Augustine and Aquinas.

²² Holy war against Christians was also a Muslim tradition, as attested by the concepts of *al-jihad al-asghar*, i.e. the military struggle against infidels, and *muhajideen* (Tyerman, 2006: 52).

²³ Between the end of the fifteenth century and the late sixteenth century, the Portuguese and the Spanish developed two different forms of empire. While the former used its naval power to build bases in Africa, Brazil, and Asia, in most cases without the intention, and most importantly the manpower, to set up a territorial empire, the former were more powerful militarily and conquered two existing empires, the Aztec in Mexico and the Inca in Peru (Lloyd, 2001: 2).

²⁴ As it will be discussed in chapter 4, there are indications that the concept of savage was already in use in fifteenth century Europe, but it only became preponderant in international society in the sixteenth century.

²⁵ For an account of the 'Black Legend' controversy see Keen (1969).

²⁶ The titles of these two dissertations can be translated as 'On the Indians Lately Discovered' and 'On the Law of War Made by the Spaniards on the Barbarians' (Anghie, 1996: 334).

4. From the Divine Right to Christianise to the Mission to Civilise

²⁷ There is no consensus about whether or not diplomacy is constitutive of international society. For example, while Neumann (2003: 350) sees diplomacy as reflective of international society, James (1993: 95-96) claims that diplomacy is a necessary element for the existence of an international society, for it its chief communications system without which the concept international society makes little sense.

²⁸ As de Carvalho et al (2011) note, examples abound. See Morgenthau (1948: 254), Gross (1948: 28), or more recently Held (1995: 77).

²⁹ This division echoes the three traditions captured by Wight (1991: 7-24).

³⁰ A famous victory of the Dutch navy was its destruction of a Spanish Armada on 21 October 1639 in The Downs (Boxer, 1965: 4).

³¹ These networks of empire characterised by forced migration were not an exclusive feature of the Dutch empire. The Portuguese established a similar enterprise centred in their *Estado da India*, and the French and British used the same system to colonise the Americas and the Caribbean (Ward, 2009: 13, 35-36).

³² It was in the early seventeenth century that the French began to establish colonies in Canada and the Antilles (Aldrich, 1996: 11-12).

³³ Keene (2002: 28) notes that he does subscribe entirely to Alexandrowicz thesis, which in his view places wrongly all 'of the blame for colonialism and imperialism onto the positive lawyers and the Gottingen historians of the European states-system.'

³⁴ Keene (2002) only mentions Vitoria once, in page 55.

³⁵ Bull (1966: 72) fails to appreciate the importance of Vitoria's influence in Grotius thoughts about just war. He argues that Grotius believed that 'international society cannot survive if it is to tolerate resort to war for any purpose whatever'. Yet Grotius, based on Vitoria's work, developed a set of principles for just war that were compatible in his view with a natural law of nations.

³⁶ Another challenge was the 1625 treatise *De Justo Imperii Lusitanorum imperio asiatico adversus Grotii Mare Liberum*, by the Portuguese professor Seraphin de Freitas (Grew, 2000: 259).

5. An International Society of Civilised States

³⁷ In his analysis of Norbert Elias work about the 'civilising process', Linklater (2004) notes the potential of combining the accounts of the history of international society with the sociological accounts of the 'civilising process.' Elias (1982) approach has a lot in common with the tradition of history of ideas, particularly the emphasis placed on the importance of context and in the attempt to see things in the perspective of those who lived through the events. In IR the term 'civilisation' is first and foremost associated with the legacy of Huntington (1993a: 22-23), who predicted that the great conflicts of the future would be caused by cultural differences and would unfold along civilisational lines. Huntington (1993b: 186, 191) defended his thesis with the need for explanatory, scientific devices to simplify the more complex reality social scientists aim to study. As he put it, 'a civilisational approach

explains much and orders much of the “bloomin buzzin confusion.” The ensuing debate generated a number of explanatory and comparative accounts of different ‘civilisations’ in IR (e. g. Cox, 2000); international sociology (e.g. Hsu, 2001); and international history – see Puchala (1997: 10-12) for numerous examples.

³⁸ Generally in the literature, the Enlightenment is used as a temporal adjective to refer to the period from the late seventeenth-century up to the nineteenth century – not withstanding its lasting repercussions – and to the political thought that dominated the European scene during that period (Muthu, 2003: 1).

³⁹ See page 78.

⁴⁰ Since the late seventeenth century, France and England were the main competitors for imperial hegemony in the West Indies, North America, the Mediterranean, the Levant, India and Africa, establishing two different colonial empires. The former was monopoly of the state and essentially a mercantilist enterprise to which most French citizens were indifferent to. It was a highly centralised empire that rejected any kind of local liberties or autonomy. The administration of the colonies was rigidly controlled by the ministry of the marine. The English empire was driven chiefly by English society’s emigration and private entrepreneurship also of mercantilist nature. The board of trade played a crucial role in the supervision of the empire and colonial administration was characterised by more autonomy (Dorn, 1940: 104-105, 251-260).

⁴¹ The most important writings of Diderot in this regard were published in *Philosophical and Political History of European Settlements and Commerce in the Two Indies*, a ten-volume work edited and partly written by the Jesuit Abbe Guillaume-Thomas Raynal published in 1780. Characteristic of it was the very critical tone regarding imperialism and the slave trade. Its publication was banned in France where the existing copies were burned. The contributors to these ten volumes were kept anonymous (Muthu, 2003: 72).

⁴² Kant used a tripartite conception of right: domestic, international (*jus gentium*), and cosmopolitan (*ius cosmopoliticum*) pertaining to ‘the rights of the citizens of the world.’ The development of the latter derives from Kant’s attempt to address the ethical problems of travel, discovery, and imperialism that characterised his era (Muthu (2003: 188-191). His emphasis on reason was applicable to both natural and positive law. Rights pertained to individual human beings and not states, but his perpetual peace was based upon the existence of a federation of free and independent states (Williams and Booth, 1996: 81-91).

⁴³ In this period the number of critics of empire and colonialism also grew substantially. While the nature of the opposition of empire and colonialism was also based on moral grounds, the utilitarian arguments against empire prevailed. The central argument was an economic one: ‘conquest does not pay’ (Cavallar, 2002: 257-258).

⁴⁴ One attempt to trace the origins of this theory of stages of development points to the fourth century B.C. and the legacy of Dicaearchus, a Paripatetic philosopher, who worked on a theory based on modes of subsistence (Meek, 1976: 10-11). The work of Samuel von Pufendorf can also be considered as an earlier contribution to this predisposition of dividing history into economic stages. In his theory of commercial sociability developed in *The Law of Nature and Nations* (1672), Pufendorf refers to ‘natural’ often as a synonym with ‘fitness’ or ‘aptitude’ (Cavallar, 2002: 237-238). See Wagar (1967) for an interesting overview of the debates about the origins of the idea of progress.

⁴⁵ For a traditional view of Adam Smith, Jeremy Bentham and John Stuart Mill as rejectionists of the mercantilist ideology according to which Britain should maintain colonies to as to keep a monopoly of trade see Sullivan (1983: 600-602).

⁴⁶ Although Darwin is widely considered as the father of this theory, it is more accurate to see him as giving popularity to a doctrine that he did not originate (Russel, 1946: 696-697). Despite its popularity, Darwin’s *On the Origins of Species* (1859) was highly criticised for,

among other things, not being inductive, and being based on assumptions instead of facts (Ellegård, 1957: 362).

⁴⁷ See Megill (2005) for a historical perspective on the notion of globalisation.

⁴⁸ In their descriptions of European international relations of this period, a number of important intellectual figures referred to the idea of a 'Christian Europe'/'commonwealth'/'république' of 'sovereigns'/'independent states', characterised by a number of norms and values: common religion; the balance of power; the law of nations; and the use of force (Watson, 1992: 206-210). The references to European sovereigns and sovereign states are a clear illustration of how, during the eighteenth century, centralised absolutism was not the only type of government in Europe, although it remained the dominant one (Grew, 2000: 317-319). The late eighteenth century was, after all, the era of popular sovereignty as expressed in the ideals of the American and French Revolutions and the Declaration of Independence and the Declaration of the Rights of Man and Citizen (Jackson, 2007: 78-79). Despite the local/national nature of these developments, they were still, as Mayall (2000: 16-17) puts it, 'national expressions of what were held to be universal rights.'

⁴⁹ Vattel developed both a naturalist and a positivist conception of law. The label of 'transitory thinker' suits him well (Cavallar, 2002: 277, 306-308).

⁵⁰ This process is most often referred to as the 'modernization of the state.' Most discussions about modernity attempt to define what modernity is; identify its causes; or when and where did 'the modern age' start, the debate about Westphalia being a good example of the latter. This task of aiming at precision regarding 'modernity' seems as utopic as undesirable. As Darwin (2008: 25) rightly puts it, modernity is 'a very slippery idea.' Nevertheless, the complexity of the theme should not be a justification to ignore or downplay the importance of a few processes or developments such as the strengthening and consolidation of the sovereign state and its power. See Nussbaum (1965) for a traditional account about the second half of the seventeenth century as the key period of revolution in Europe, where science, reason, and progress, related with the work of the likes of Bacon, Galileo and Newton, 'triumphed' over the old ways of thinking about the world, both divine and material. For a compelling critique of the supposed benefits of 'modernity' and of the seventeenth century as a period of crisis in Europe see Toulmin (1992).

⁵¹ The Congress of Vienna was a reaction to the period from the early 1790s to 1815 marked by revolution and war that followed the American and French revolutions, and the Napoleonic imperial ambitions (Clark, 2005: 85). One of its central principles was the responsibility of the Great Powers in maintenance of international order and of the previous status quo. The other was that any changes to the status quo, either in territory or government, or the settlement of any dispute had to be made by consensus. The Concert of Europe reflected the artificial, positivist conception of the balance of power, now seen as a product of human device and no longer grounded on naturalistic assumptions (Clark, 1989: 114-121).

⁵² This account about the notion of decline/crisis of non-European empires as the driver behind European imperialism was advanced by a group of historians led by John Gallagher and Ronald Robinson. As Doyle (1986: 20-21) explains, they focused on 'the crises engendered in Africa, Asia, and Latin America,' and the 'weakness and collapse of these subordinate societies' as the 'true roots' of Europe's imperial expansion. See Galbraith (1960), Robinson and Gallagher (1962), Robinson et al (1981), Gallagher (1982). See also Louis (2006: 907-945) for the debate on Gallagher and Robinson's legacy.

⁵³ The term capitulations can be misleading, since it refers not to the act of surrender but to the fact that these agreements were divided into a number of *capitula*, i.e. brief chapters (Nussbaum, 1961: 55). The Treaty of Paris (1859) at the end of the Crimean War is generally regarded as the moment when Turkey was recognised by the European states as

a member of international society (Bull, 1977: 14). See Neumann and Welsh (1991: 333-348) for an overview of European-Ottoman relations since Latin Christendom.

⁵⁴ A number of factors contributed to these defeats, not only external pressures but also the challenge posed by the Wahhabis and their allied Saudi dynasty to the legitimacy of Ottoman rule, coupled with a series of internal revolts. See Finkel (2005: 362, 373), Masters (2006: 186).

⁵⁵ See Onuma (2000) for an interesting discussion on this. The origins of international law have been traced back to 3100 B.C., when it is thought that a treaty was celebrated between two political communities in Mesopotamia (Nussbaum, 1961: 1).

⁵⁶ This process of European learning from non-European peoples is of course not an exclusive feature of international law and is applicable to innovations that were introduced in European agriculture, industry, and commerce at least since the twelfth century (O'Brien, 1984: 51).

⁵⁷ See Hobson (2004) for an interesting discussion on this.

⁵⁸ As Klabbers (2009: 9, 11) explains, the term constitutionalism in international law debates corresponds very much to the Grotian notion of international order as comprising sovereign states who recognise the existence of basic rules of law and morality applicable to their interactions. While the Grotian tradition is not a positivist current, as it is also composed of naturalist precepts, constitutionalism has a naturalist and a positivist school.

6. The Backward and the Promise of Self-Government

⁵⁹ According to Richard (1995: 1-2), up to this point, the territories under the rule of the Mughal Empire were characterised by very high levels of public order and very low levels of violence. Often ignored, Marshall (2005: 121-122) notes, is that in the place of a declining Mughal Empire were emerging a few prosperous successor kingdoms and not simply chaos and anarchy.

⁶⁰ See Cutler (1991: 51) about Burke as a neo-Grotian given the importance he placed on constitutionalism and moderation.

⁶¹ Later Zaire and Democratic Republic of Congo.

⁶² Mark Twain estimated that only the slave trade had cost 8 to 10 million lives in the region. The slave trade by Europeans, which preceded by a few centuries the establishment of the Congo Free State, was destined to the Americas and was dominated by the Portuguese, who faced the rivalry of East African slave traders (Hochschild, 1998: 2-3).

⁶³ The European rivalry in Africa was managed by the Concert of Europe through a number of conferences in Berlin and Brussels between 1876 and 1912, chiefly concerned with adjustment of conflicts and the definition of international rules for African affairs (Gong, 1984: 76). The first of these conferences was called by King Leopold II (Haskin, 2005: 1). As Hochschild (1998: 86) notes, the Berlin Conference did not partition Africa, in the sense that it took many more treaties to divide the entire territory among the European empires.

⁶⁴ The words 'The countries mentioned in Article 1' refer to 'all the regions forming the basin of the Congo and its outlets.'

⁶⁵ It is this consensus that leads Owen (1999: 188-190) to argue that, in the early twentieth century, Hobson, Morel, Henry Noel Brailsford, and others' views were not outright condemnations of imperialism. Instead, they criticised the 'unprincipled turn that the Empire

had taken.' They opposed further acquisitions of territory, but believed that Britain was not obliged to give up to those territories already under her possession.

⁶⁶ A few accounts of the German administration of African territories provide a picture not only of misrule and exploitation, but the systematic extermination of the natives as a solution to end any kind of uprising (Macaulay, 1937: 13-18).

⁶⁷ The first officially sponsored draft of the Covenant was produced in Britain. The Phillimore Committee put forward recommendations that, as Northedge (1986: 27-29) puts it, were 'conservative, orthodox, and minimal', which was not surprising given it was conservative in composition. The Phillimore proposal was never treated by the British government as an official proposal; it was instead presented as a 'basis for discussion.' It displeased Wilson mainly due to its omission of any mutual exchange of territorial guarantees. Wilson had made this a central demand for the future organisation. As he pointed at the end of his Fourteen Points Address before Congress in January 1918, 'a general association of nations must be formed under specific covenants for the purpose of affording international guarantees of political independence and territorial integrity to great and small states alike' (Northedge, 1986: 30).

⁶⁸ Smuts had been trained as a lawyer, read widely Roman and Constitutional Law and had decent knowledge of British colonial history (Macaulay: 1937: 9).

⁶⁹ Among his most notable books were *International Government* (1916), *Empire and Commerce in Africa* (1920), *Imperialism and Civilisation* (1928), and *The War for Peace* (1940) (Wilson, 2003: 4).

⁷⁰ A couple of examples of the League of Nations peacekeeping are the settling of the dispute over the city of Vilna between Lithuania and Poland (1920-1922), and its involvement to place an end to the skirmishing over parts of Albania's territory between Albania and Yugoslavia and Greece (1921-1923) (James, 1999: 154-155).

⁷¹ Table 1 in the Appendix shows the arrangement.

⁷² The Allied Supreme Council consisted of Great Britain, France, Italy, Japan, and the US in the initial period.

⁷³ For an account of some of the most important thinkers of inter-war period see Long and Wilson (1995).

⁷⁴ The expression Indirect Rule is closely linked to Lord Lugard, who was the founder of British Nigeria (and later the British representative in the League of Nations' Permanent Mandates Commission), where he was faced with the problem of administering a large territory and huge population with a limited budget and little military commitment. The administrative methods of Indirect Rule had its roots in India, and it was later developed in various British imperial territories such as Malaya, Fiji and Africa (Louis, 1999b: 22; Robinson, 1965: 22, 67).

⁷⁵ Lord Olivier was Secretary of State for Indian and a member of the Fabian Society.

⁷⁷ Another prominent example of how imperial ambitions over the mandated territories precede the creation of the mandates system is the Sykes-Picot agreement of May 1916 (later abandoned), that would divide the former territories of the Ottoman Empire into zones of indirect but exclusive influence (Balfour-Paul, 1999: 490-497).

⁷⁸ A particular problem regarding the measurement of the political progress of each territory was that there were often disputes about what constituted self-government and independence (Murray, 1957: 211-212).

7. Underdevelopment in a Universal International Society

⁷⁹ The concept was still very much alive in the immediate post-War years, as illustrated by the UN decision to allow Italy to administer a UN trusteeship over its Somaliland territory begging in 1950 (Lefebvre, 1991: 79).

⁸⁰ A major obstacle to French acceptance of a new European post-imperial order was the French conception of ethnocentrism and the belief in the universal validity of French civilisational values. In the words of Maurice Duverger, 'the English would be shocked that a foreigner could have the idea of becoming British. The French are shocked when a foreigner does not have the idea of becoming French' (Andrew, 1984: 337-340).

⁸¹ This transformation was accompanied by better information available about the status of colonial government, e.g. Lord Hailey's *An Africa Survey* (1938) and Lord Moyne's report on the West Indies (1939) (Hyam, 1999b: 276).

⁸² This tension between the traditional and the artificial is what Jackson and Rosberg (1982: 15) call 'the paradox of decolonisation.'

⁸³ Orwell (Erich Arthur Blair) was a harsh critique of totalitarianism, as he expressed in *Animal Farm* (1945) and *Nineteen Eighty-Four* (1949).

⁸⁴ As a movement giving shape to an alternative/third way to capitalism or communism, the Non-Aligned started to be designed in the Belgrade Summit of September 1961, attended by 25 members, eleven from Africa, eleven from Asia, two from Europe (Yugoslavia and Cyprus), and one from Latin America (Cuba) (Lyon, 1984: 230-232).

⁸⁵ As stated in its Final Communiqué, the 29 conference participants were Burma, Ceylon, India, Indonesia, Pakistan, Afghanistan, Cambodia, People's Republic of China, Egypt, Ethiopia, Gold Coast, Iran, Iraq, Japan, Jordan, Laos, Lebanon, Liberia, Libya, Nepal, Philippines, Saudi Arabia, Sudan, Syria, Thailand, Turkey, Democratic Republic of Vietnam, State of Vietnam, and Yemen.

⁸⁶ Another division of the world into three distinct parts, one that never gained much international prominence, was the Maoist approach called 'The Theory of Three Worlds'. According to this vision, described as based on imperialism and hegemonism of the two superpowers, the first world was formed by the US and the USSR., the second world formed by Japan, Canada, and Europe, and the third world formed by the whole of Asia except Japan, plus Latin America and Africa (Muni, 1981: 26).

⁸⁷ Although it had limited effects on development policies, the 'basic needs approach' enjoyed of a certain popularity among big international institutions like the World Bank, and in numerous NGOs, during the 1970s. It aimed to reconcile the 'growth imperative' in the Third World with social justice, namely the prioritisation of essential human needs. The concept gained international prominence in a speech of Robert McNamara (1972), then President of the World Bank. An important theoretical contribution favourable to the basic needs approach was Katrin Lederer, Johan Galtun and David Antal's *Human Needs: A Contribution to the Current Debate* (1980) (Rist, 2008: 162-166).

⁸⁸ The alliance between the USSR and the People's Republic of China, established in February 1950, did not prove long-lasting. Numerous factors, including cultural and domestic ones, together with tensions between Krushchev and Mao, gradually undermined the idea that that the ideological, economic, political, and security interests shared between the two Communist powers would sustain this alliance (Zhang, 2010: 360).

⁸⁹ With the Peace Corps, Kennedy's aim was to mobilise and raise awareness among the young population in the US in relation to the less privileged Third World states, in the way the thought Communist countries were able to do (Cooper, 2010: 61).

⁹⁰ The Alliance for Progress was essentially an anti-Castro strategy, designed to build democratic, and most importantly anti-communist, Latin American states (Rabe, 2001: 59).

⁹¹ Not surprisingly, Kennedy's 'Decade of Development' was closely related with a proposal co-authored by Rostow titled *A Proposal, Key to an Effective Foreign Policy* (1957), which called for the US to 'associate its purposes and efforts with those of the aspiring new nations' (Holbik, 1968: 29).

⁹² The reasons pointed out for this failure are multi-fold. One can mention the creation of dependency and the protective policies of rich countries, which greatly damaged the economies of underdeveloped/developing countries that were mostly reliant on exports, in many cases of one single commodity. Another of the fundamental reasons for disillusionment with aid was the politicisation of the goals of development, and the fact that the benefits of many aid programs did not extend beyond the elites of the target countries, thus contributing little to social justice (Waterlow, 1979: 101-103, 123-124). The result was a major debt crisis of most Third World states (Jackson, 1990: 124-125). In their embrace of one or the other models of development that the two superpowers exported to the underdeveloped countries, many Third World elites often employed repression in the name of that transformation (Latham, 2010). This largely contributed to the instability experienced by many Third World states after decolonisation, including lasting rebellions and insurgencies (Westad, 2005: 3, 89).

⁹³ There is ample evidence that the Lebanese government of Camille Chamoun played with US fears of Communist takeover, namely the threat of Nasserism, to guarantee US assistance in putting an end to the popular revolt against Chamoun's policies (Karabell, 1999). Also in the case of Guatemala, US views that President Jacobo Árbenz was leading Guatemala towards becoming a communist regime, and that he was being supported by Moscow in this affair, were incorrect. In fact, Guatemala's communist party was rather small. Árbenz's government (whose members were tortured and killed) was replaced by a military junta (Kinzer, 2006: 135-143; Bradley, 2010: 479).

⁹⁴ According to Amnesty International, one to two million people died at the hands of the Khmer Rouge (Wheeler, 2000: 78).

⁹⁵ Kennedy's statement is recounted by the American historian Arthur M. Schlesinger, Jr., in *A Thousand Days: John F. Kennedy in the Whitehouse* (1965), and must be read not only in the context of the Cuban revolution, the Havana-Moscow alliance, and the missile crisis, but also considering Castro and Che Guevara's launch of a campaign for influence with guerrilla movements all across South America (Bradley, 2010: 483).

⁹⁶ Despite the term 'civil war', it is hard to find a conflict that took place in the Third World during the Cold War that did not involve neighbouring countries and/or at least one of the two superpowers.

⁹⁷ The 'Uniting for Peace' resolution (1950) is seen as an attempt by the US and its allies to change the institutional balance of power between the Security Council and the General Assembly in the face of constant USSR vetoing in the Security Council (Zaum, 2008: 155).

⁹⁸ Gorbachev launched a series of initiatives on the Third World in the hope of reducing, if not ending, these conflicts. His policies included demilitarisation, particularly in the Third World; national reconciliation; and multilateral re-openings (Halliday, 1989: 119-127).

8. Conclusion

⁹⁹ See page 209.

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