ABSTRACT

Sovereignty and *tianxia*: Origin, Development and Comparison

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The political trajectories of China and Europe have been remarkably different. China is a powerful unitary state with relatively little economic innovation and relatively little identity change throughout its history, whereas Europe is divided into numerous nation states containing diverse cultures, with relatively limited government and tremendous social and economic change over the course of its modern history. In this thesis I argue that the difference between Europe and China comes down to institutionalized conflict through the development of the theory of sovereignty in the West versus institutionalized harmony through the development of the "*tianxia*" concept in China. My thesis explores the background, origin and development of the Western concept of sovereignty based on canonical political philosophical texts and compares findings with the *tianxia* concept of China, ending in an assessment of how the dominant sovereign system could be complemented by contributions from the *tianxia* concept to construct a world order more effective in meeting challenges in today's world.

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SOVEREIGNTY AND TIANXIA:

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TABLE OF CONTENTS

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CHAPTER ONE

The Concepts of Sovereignty and *tianxia*

Introduction

Political concepts are not just abstract; they constitute the theoretical foundations of political orders. Philpott states of ideas: "Iconoclastic ideas declare existing orders invalid, they win converts, and the converts challenge the old order, creating a crisis, bringing a revolution in international authority" (Philpott 1995, 51). With the rise of China and the seeming weakening of borders and sovereignty in the Middle East, the concepts of Sovereignty and *tianxia* press more to the foreground in the consideration of the evolving global order. Sovereignty, a concept born out of the political diversification of Europe, is "a foundational idea of politics and law around the world" on which self-contained units of nations are established (Jackson 2007, 1, 11). China, a country that has a long history of integrating different cultures and fluctuating borders, has followed a different path from Europe in its political order. The political empire of ancient China is one that shapes itself around the concept of *tianxia* (All-Under-Heaven) and absorbs neighboring countries into its hierarchical political order through primarily peaceful means. In this thesis I focus on the philosophical foundations of Western concept of Sovereignty and the Chinese concept of *tianxia*. In a comparison that focuses on the different theories of Sovereignty and *tianxia* for institutionalizing harmony and containing conflict, I hope to highlight their strengths and weaknesses. Ultimately, I am looking for some insight into the evolving system of sovereign states.

The Concept of Sovereignty

Sovereignty is a modern innovation. According to Charles McIlwain (1932, 392), "the full development of the idea of sovereignty belongs to the historian of modern . . . . political thought . . . Conducive to a theory of sovereignty, is the idea of nationality . . . The complete expression of this sentiment is not to be found before the sixteenth century." It was not until the Reformation that secular political power really broke from religious authority to form its own independent and increasingly superior sphere of authority. From being subordinate to divine law and papal authority, the power of monarchs grew to be supreme and absolute, with sovereignty gradually being understood as "both an idea of *supreme* authority in the state, and an idea of political and legal *independence* of geographically separate states" (Jackson 2007, x). This sovereign independence is expressed by a core notion of "*rex est imperator in regno suo*" (the king is emperor in his own realm) (Jackson 2007, 7).

Sovereignty is also a "pluralistic arrangement of authority" (Jackson 2007, 8). Sovereign states interact with one another and follow certain norms of sovereignty. Jackson sums up three norms according to the UN Charter (Article 2): "equal sovereignty, territorial integrity, and non-intervention" (Jackson 2007, 8). Internationally, sovereign states are supposed to be on equal grounds, with mutual respect for their territorial integrity and independence. Domestically, the sovereign operates as an authority that is above all others in "the same territorial jurisdiction" and independent as in "constitutionally separate and self-governing" (Jackson 2007, 10). This independence necessarily indicates non-intervention from foreign sovereigns. John Stuart Mill's short essay "A Few Words on Non-Intervention" deals with the question of whether or not

intervention is legitimate in a system of sovereign states. He differentiates between "barbarians" and "civilised nations," and claims that while invasion and subjection might be beneficial for the barbarous countries such actions are detrimental for civilized ones with "independence and nationality" (Mill 1987, 4). Moreover, he rejects ideological wars: "To go to war for an idea, if the war is aggressive, not defensive, is as criminal as to go to war for territory of revenue; for it is as little justifiable to force our ideas on other people, as to compel them to submit to our will in any other respect" (Mill 1987, 4). But this does not imply a general rejection of intervention. For intervention in the civil wars of other civilized nations, the answer is generally no. If a people does not have "sufficient love of liberty" to win their own war, then the liberty given by others cannot last long (Mill 1987, 6). But when the country is held by a foreign power that is far too superior in military power to be driven out, intervention is used to "enforce non-intervention" (Mill 1987, 6). Written when European imperial expansion in "barbarian territories" was the norm, Mill's version of non-interference is of limited applicability to the non-intervention today. However, his thoughts on intervention in ideological wars and civil wars are of overwhelming relevance to the interventions happening in today's world and warrants consideration.

Today there are 195 independent, sovereign states. The meaning of "sovereign state" was settled by the end of the sixteenth century. It requires "a body of people occupying a defined territory and organized under a sovereign government" (Jackson 2007, 20, quoting the Oxford English Dictionary). The definition of statehood was also codified in international law at The Montevideo Convention on the Rights and Duties of States in 1933: "The state as a person of international law should possess the following

qualifications: a) a permanent population; b) a defined territory; c) government; and d) capacity to enter into relations with the other states." To meet such qualifications in the modern world, the state necessarily needs a Sovereign with supreme authority to establish laws, guard territory, protect citizens and carry out diplomacy with the sovereigns of other states.

While modern-day China meets all the criteria of a "sovereign state," it did not become acquainted with the idea of sovereignty until the end of the 19th century, when European powers entered China in order to open new markets within the capitalist system. Subsequently, China's recognition of sovereignty was strengthened through its struggles for self-determination in the post-colonial period (Jackson 2007, 7).

The Concept of tianxia

The concept of *tianxia* is the touchstone of the ancient Chinese order and is very well documented in various classical works of ancient China. The contemporary scholar Zhao Tingyang draws from these ancient records and proposes three dimensions to the concept.

The first dimension is geographical: *tianxia* means all the land under the heaven. In *The Records of the Grand Historian,* the canonical text for Chinese history written around 100BC, the author Sima Qian (c. 145/135 BC-86 BC) refers to Zou Yan's theory on the Nine Provinces of China. Zou Yan is the founder of the School of Yin Yang during the Warring States Period (475BC-221BC), which is also called School of Naturalists. Geographically, China is only one of the eighty-one parts that comprise of *tianxia*. There are nine provinces in China, but also eight continents outside of China, which are separated from each other by sea. Each of these continents has its own nine

provinces. Outside of these lands is the Great Ocean, which stretches to the heaven (Sima c. 109BC).

The second dimension is moral. *Tianxia* means the "hearts," namely support of all who live on the land. Xunzi (313BC-238BC), a significant Confucian scholar during the Warring States Period, claimed that the ruler is to rule by moral righteousness and justice (*daoyi*), and *tianxia*, the heart of all who live on the land will be his if he does so. Similarly, in book one of *The Mencius* (c. 250BC-150BC), Mencius meets Xiang, king of the Liang kingdom, and tells him that the one king who will be able to unite China is one who does not kill for the sake of killing. *Tianxia* will submit to and follow this one king. The "*tianxia*" here is used to refer to the people in the geographical area of *tianxia*.

The third dimension is political. The concept of *tianxia* envisions a global system and a world government. It is a "full concept of the world:" the world is envisioned as with a system, and is interpreted from multiple facets (Zhao 2011, 10). Geographically speaking *tianxia* is bigger than the state, and so is it politically speaking.

Historically, China does not have the concept of "nationality." Concepts like nationalism, the Chinese nation, patriotism and the nation-state were all imported by the reformer Liang Qichao from Japan between 1899 and 1901 for the purpose of shaping China according to sovereignty norms (Zheng 2007, 128). In ancient China, "China" meant either an abstraction of Chinese civilization and the associated rites and protocols or the political body represented by dynasties (Xu 2014). The former understanding of "China" is related to *tianxia*, while the latter is related to *Guo,* the state. Thus Levenson (1958) observes, *tianxia* was "the regime of value" while the state was "the regime of power." *Tianxia* is a body of values and has "a moral claim on man's allegiance" (Xu

2014; Levenson 1958, 102). "The state is but the symbol of power of a dynasty, but *tianxia* is an universal code of morals and benevolent order" (Xu 2014). Gu Yanwu (1613–1682), a dissident scholar of the Qing Dynasty of China expressed such view: "When the house of the ruler changes, it is losing a state. When benevolence and righteousness decayed into the rule of beast-eat-man, men, leaders, eating each other—this is a description of the destruction of *tianxia*" (quoted in Xu 2014; quoted in Levenson 1958, 102). "Tian" which means "Heaven" when interpreted literally, is infused with moral personifications. "Tian Dao" is "the way of the divine" and imposes divine laws on the ruler while being superior to temporal laws.

A concept closely related to the idea of *tianxia* is *Huaxia*. In contemporary understanding Huaxia is a term that refers to the ethnic group of Han, the group that made up most of China's population since ancient times. However, the term "connotes culture and civilization" in ancient China: those who lived in China proper were, inter-alia, cultured and civilized, clearly differentiable from those barbarians on the periphery (Xu 2004; Tu 1991, 3). Culture here is inevitably connected with political governance: it includes "the ideology of imperial Confucianism, the underlying classical philosophy of social order, and the ritual observances and ceremonial forms which all together legitimized and sanctioned the ruling authority" (Fairbank 1968, 273). The civilization, which is embodied by the culture, is fluid, and different ethnicities once incorporated into the Chinese civilization are included into the concept of Huaxia (Xu 2004). In the Southern and Northern Dynasties (420AD-589AD), the various ethnic minorities that established kingdoms in and next to China claimed to be descending from the same origins of Huaxia, and accepted Confucianism and Chinese rituals in their courts (Liu

2014). The case of the Manchurians, who established a dynasty in China and were gradually incorporated into the Chinese civilization, is the best illustration of this fluidity.

Another concept, the "Sino-barbarian" dichotomy (*Huayizhibian)* expresses specifically a sentiment of division. "Hua" refers to the Chinese themselves, who deem themselves culturally superior, and "Yi" refers to the barbarians living on the four corners (*siyi)* of *tianxia* (Pines 2006, 62). There are two premises to the dichotomy: Chinese cultural superiority, and the "transformability" of outsiders into insiders of the Chinese civilizational sphere (Pines 2006, 74). "Chineseness" thus refers "mostly to the adherence to the common ritual norms of the Zhou dynasty (1046BC-256BC) and not 'race' or 'ethnicity'" (Pines 2006, 62). The "legendary sage ruler" Shun was from "the Eastern Yi" and the founding king of Zhou dynasty Wen was born in the "Western Yi" (Pines 2006, 73, quoting *Mengzi* 8.1). Places like Yunan, Jiangxi and Sichuan that became provinces of China were considered non-Chinese before they entered the folds of the Chinese civilization (Wang, in Fairbank 1968, 36). The criteria for "Chineseness" is not ethnic, but cultural (Pines 2006; Zhao 2011). The aliens in fact, are regarded as an "inalienable" part of *tianxia* (Pines 2006, 82). They were supposed to be "embraced by the sage's universal munificence" (Pines 2006, 83). I shall say more about the various inflections of *tianxia* in Chapter 4.

CHAPTER TWO

Western Sovereignty from a Domestic Perspective

Introduction

This chapter will trace the development of the concept of sovereignty from a domestic perspective. As Europe emerged from the Middle Ages, secular sovereign power replaced religion's role as a political ordering force. Medieval thought located kings in "two spheres: the divine and the temporal, the metaphysical and the physical," but the modern monarch is at once moral and perpetual, earthly and divine (Elshtain 2012, 63). The medieval "good Christian king" is one who is subject to the law, upholds earthly justice and is condemnable if a tyrant, but the modern sovereign possesses absolute power (Elshtain 2012, 64). In the works of Machiavelli, for instance, the only way the sovereign is limited is by fortune, embodied by the goddess Fortuna. For Hobbes, the sovereign is the soul and spirit of the "body politic," and "the will of the ruler brings the body to life" (Elshtain 2012, 63). Jean Bodin, the first political philosopher to define sovereignty in its modern sense, also defined sovereignty as an absolute power. Both Bodin and Hobbes have order and stability in the state as their central concern and seek ways to contain conflict within contract and terms. After I explore the emergence of domestic sovereignty in the work of Bodin and Hobbes, I will examine the United Sates. Sovereignty in the U.S. takes its bearings from the 18th century Lockean conception of popular sovereignty, and thus departs from Bodin and Hobbes's absolutist version.

The Pre-Bodin Political World of Europe

The defining characteristic of medieval European society was its emphasis on "Christian" order (Elshtain 2012, 6). After the Roman Empire collapsed in the fifth century, Europe scattered into *regna,* "islands of local political authority" that were ruled by different migrant tribes (Jackson 2007, 25). Although Rome lost its political power, its religion remained, and these tribal leaders or their descendants were Christianized from the fourth to the fourteenth century, with their *regna* being identified by the land and its people (Jackson 2007, 26). The *regnas* shifted in borders and possessed diverse populations such as former christianized and romanized populations, and rulers often had "different offices in different territories" (Jackson 2007, 28). There were also kingdoms and other "territorial lordships," with the Kings above the dukes and most other authorities but subject to God and also the pope in certain matters (Jackson 2007, 28). The king's authority was far from absolute. The "feudal nobility" ruled local fiefdoms and formed a ruling caste that were "semi-autonomous" and could resist the authority of the king (Jackson 2007, 28). Local authorities (*communitates)* such as cities and guilds were also rivals to the authority of kings (Jackson 2007, 28).

The *regna* and *ecclesia* governed the land, with the emperor (*regnum)* and the centralized church (*sacerdotium)* heading each (Jackson 2007, 26). The society was a Christendom in which the emperor controlled secular aspects of society, and the Roman Catholic Church had the say on all things ecclesiastical (Elshtain 2012, 59). Similar to the Christian emperor of the Roman Empire, the secular rulers had the duty to protect the church and its persons, and lead crusades to the holy lands (Jackson 2007, 27). There was no national identity, and people had "no other common name for themselves that

extended beyond the local community' other than Christians (Jackson 2007, 30). Both emperor and pope relied on a *jus gentium,* or law of the peoples to govern. A *jus natural* or natural law was also indispensable, and was "the expression of this universal community, endorsed by the sovereign Lordship of God" (Elshtain 2012, 14). Therefore the natural law served as a higher law "to which particular civil laws should conform" (Elshtain 2012, 14). As with the relationship between natural law and civil law, the authority of the Church was placed above that of the emperor and princes. Europe by the ninth century believed that secular authority was limited by divine authority of God: "as a member of the Church Universal, the earthly ruler is simply another believer, subject, like all Christians, to church governance" (Elshtain 2012, 14). If a ruler ruled against religious principles and beliefs, he was held accountable and his rule could even be considered illegitimate (Elshtain 2012, 59). Elshtain offers the example of Theodosius, the emperor who was compelled by St. Ambrose to publicly ask for forgiveness for a massacre by the army at Thessalonica (Elstain 2012, 14). In this instance Ambrose established "the principle that the Church exercises jurisdiction over all Christian believers, even the most exalted" (quoted from the Carlyles, Vol, I, p. 183, in Elshtain 2012, 15). Most strikingly, was *Plenitudo Potestatis*, "a power that included a right to free all subjects, ... from obedience to that ruler," which was brought to full visibility by Pope Gregory VII (Elshtain 2012, 60). Such prerogative made papal supremacy outshine imperial rule as the most eminent power over all of Europe.

The end of the Middle Ages was ushered in by the Protestant Reformation, the English Reformation and the Enlightenment. While "the dualistic arrangement of authority" between emperors and popes had been a constant source of contention, it was

during the Protestant Reformation that the omnipotent authority of the Church was challenged in its theological foundations. By emphasizing the necessity of temporal authority and temporal order, and "justifying the independent authority of kings and the duty of Christians to obey them," Martin Luther "strengthened the territorial state" (Jackson 2007, 43; Elshtain 2012, 85). The ranking of the dual powers was now reversed, so that temporal power now had dominion over religion. The king now ruled by "divine right," (independent of a Papal mediator), and the ruler decided the religion of his realm (Jackson 2007, 39). The notion of a universal kingdom under God thus succumbed to fracturing according to nationalistic characteristics. The Protestant Reformers were the first major catalyst to such as change. Obedience to the sovereign was emphasized by Calvin: a "lawful, God-ordained magistracy" should bring order to a human world that is "inherently corrupt due to the depravity of humanity" (Elshtain 2012, 88-9). "God gives the magistrate the sword directly" and not via spiritual authority, and whether or not this sword punishes justly or unjustly, it has to be obeyed (Elshtain 2012, 89). Through this process, the *regnum* had transformed to the *stato,* to use the language of Machiavelli's *Prince* (Jackson 2007, 38).

Bodin and his Conceptualization of Sovereignty

Living in the aftermath of the Protestant Reformation, Bodin experienced a world already transformed by religious disunion and secular insurgence. France was in "imminent or actual civil war" for four decades with political factions such as the Guises and the House of Bourbon, and the Wars of Religion that pitched Huguenots against Catholics (Dunning 1896, 84). Such a context led Bodin to seek firm grounding of authority in one undivided sovereignty in his *Les Six Livres de la République* (1576),

which conceptualized "sovereignty as a political concept in its recognizably modern form" (Elshtain 2012, 57). In this key work that achieved the theoretical birth of sovereignty, Bodin articulates an account of "full-blown sovereignty of temporal power" (Elshtain 2012, 61).

At the start of *On Sovereignty*, which is Chapter eight of Book I of Bodin's original French work *Les Six Livres de la République*, Bodin defines sovereignty as "the (a) absolute and (b) perpetual power of a commonwealth" (Bodin 1992, 1). A commonwealth is "a just government, with sovereign power, of several households and of that which they have in common" (Bodin 1992, 7). When the people have "transferred all of its power, authority, prerogatives, and sovereign rights to him and in him," a person or group is rightfully a sovereign (Bodin 1992, 7). A citizen in fact, is defined by being "a free man who is subject to the sovereign power of another" (Dunning, 1986: 91).

The power that the sovereign possesses is perpetual and absolute. Perpetual means that it is "not limited either in power, or in function, or in length of time" (Bodin 1992, 3). Absolute means that once the people or aristocracy of a commonwealth have transferred power to the sovereign, there are no further conditions and obligations of the sovereign to the people or aristocracy (Bodin 1992, 7). The absolute power does not have to be in one person but can be in a group, as long as it is sovereign (Bodin 1992, 7).

Laws depend solely on the prince's own free will—the law is the sovereign's will (Bodin 1992, 11). The main prerogative of sovereignty is "giving the law to subjects in general without their consent" (Bodin 1992, 23). The prince is not subject to the law since the law is the command of the sovereign (Bodin 1992, 11). Bodin reasons this out by saying it is "impossible by nature to give one's self a law as it is to command one's

self to do something that depends on one's own will" (Bodin 1992, 12). The sovereign is also exempt from the laws of his predecessors, and is not bound by laws made by himself. A prince is bound not by the law, but by the oath that he will keep the law. But he does not need to keep promises either. In a monarchy, the people take oath of loyalty, but the prince owes an oath of loyalty only to God (Bodin 1992, 25).

Unbound by law does not mean that the prince should be lawless. If there is no just cause, the prince "ought not and cannot [justly] contravene the law (Bodin 1992, 14). If an heir, he is bound to the contracts and oaths of predecessors (Bodin 1992, 12; 14). A contract is mutual, and in this case prince and subject are equal. According the Bodin's third rule of state, a prince is bound by contracts, whether contracts with subjects or foreigners (Bodin 1992, 35). The obligation is supported by the natural equity of contracts and a prince's good faith (Bodin 1992, 35). Specifically, the prince is bound by "his just and reasonable contracts in the observation of which his subjects in general or particular subjects have an interest" (Bodin 1992, 14). Depending on whether or not the person he gave his word to has an interest in his doing so or not, he should or need not keep his oath (Bodin 1992, 13).

God is the only authority to whom the sovereign is accountable and in relation to whom he is inferior. Contrary to medieval times, when the pope actively used this belief politically to impose restraints on the king, it was now used to augment the sovereign's absolute power, while at the same time retaining constraints on that power. The sovereign is someone who is "absolutely sovereign," which means that he "recognizes nothing, after God, that is greater than himself" (Bodin 1992, 4). The law of God or nature is the sole law that the sovereign power must always abide by, and it should be obeyed in fear

and reverence on which reason also has to be based (Bodin 1992, 4, 31). The law of forbidding killing on penalty of death also binds the prince because it is the law of God and nature (Bodin 1992, 31).

A subject, even if exempted from laws, should remain in subjection and obedience to the sovereign (Bodin 1992, 11). There is no reason to revolt against obedience to the sovereign, unless the king is captive or insane (Bodin 1992, 19). For the sovereign, that the people take the king's will for law humbly is how "the grandeur and majesty of a truly sovereign prince is manifested" (Bodin 1992, 19).

Supreme Sovereignty in Leviathan

While Hobbes lived a century later than Bodin, the similar political turmoil of their respective environments contributed to similar conclusions on sovereignty (Dunning 1896, 84). Around the time that Hobbes started writing Leviathan, 1649, the civil war in Britain ended, and King Charles I was imprisoned and tried (Tuck 1996, xi). As a royalist, Hobbes had been one of the first to flee to France with the meeting of the Long Parliament (Dunning 1896, 87). He has often been deemed "the most resolute defender of absolute monarchy" (Dunning 1896, 82). And underlying his support for the monarchy is a systematic and compelling conception of sovereignty as it pertains to the domestic realm.

However, in contrast to Bodin who inducts his conclusions from historical precedents and philosophical sources, Hobbes presents his conclusions in the manner of geometric science. He starts by summarizing basic faculties of the human body, which leads to the state of nature for men, and eventually to the laws of nature that form the basis of the contract on which a commonwealth based. His scientific tone infuses his

conception of the commonwealth and sovereign as well. The commonwealth is "the Multitude so united in one Person" that its representative is the Leviathan or "Mortall God", and "he who carryeth this Person" is the sovereign (Hobbes 2007, 120-121). This great Leviathan "is but an Artificiall Man," and for this "Body Politique" the sovereign makes up the "Artificiall *Soul*," giving it "life and motion" (Hobbes 2007, 9).

The first and foremost concern of the sovereign is to guarantee security. The fundamental law of nature in *Leviathan* is "to seek Peace, and follow it" (Hobbes 2007, 92). And the only instance in which subjects are freed from the Sovereign's rule is when he relinquishes his sovereignty and therefore does not guarantee their security, in which case they revert back to the state of nature (Hobbes 2007, 154). Other than this one caveat, the Sovereign rules unchallenged. Only he can legislate and judge on matters of war and peace, and others cannot transfer his power nor accuse him (Hobbes 2007, 139). Property rights are of no great concern to him; on this matter the sovereign is left unrestrained as well. The sovereign is not a party to the covenant that forms a commonwealth, therefore he may commit iniquity, "but not Injustice" (Hobbes 2007, 124). Even if the sovereign commits iniquity, the covenanters are not free to rebel once they have authorized his rule.

To further advocate absolute sovereign power, Hobbes speaks against objections to tyranny: tyranny is no more and no less than "the name of Soveraignty," and a toleration of a "professed hatred of Tyranny," is "a Toleration of hatred to Common-wealth in general" (Hobbes 2007, 486). He favors a civic religion, one in which "the sovereign judges what doctrines are fit to teach insofar as they are conducive to civic peace and order" (Hobbes Chap. XII). One evidence for Hobbes's preference for sovereign order is found in his Review and Conclusion where he calls for submission to

Cromwell's regime, which not only executed the former king, but also defeated the strong royalist forces remaining in Scotland in 1651 (Dunning 1896, 82).

By calling the Leviathan a "Mortall God" Hobbes inaugurates a new attitude towards the relationship of the law of the sovereign and divine law. While Bodin foresaw a possible controversy between the law of the sovereign and the divine law, and explicitly recognized that the sovereign comes "after God," Hobbes boldly exempts the Sovereign from keeping contracts to the law of nature (Bodin 1992, 4). The laws of nature are "immutable and Eternall," and the knowledge of them is Moral philosophy, which is the "science" of Good and Evil, "names that signify our Appetites, and Aversions" (Hobbes 2007, 110). Such laws are "naturally reasonable," yet only the Sovereign could make them law properly speaking, and apply them to the commonwealth (Hobbes 2007, 191). The interpretation of laws depends solely on the Sovereign (Hobbes 2007, 191). Moral philosophy is not a source of authority, but only that of it which the Sovereign enacts as law and interprets. There is no other source of authority other than the sovereign. It is in this sense that Jean Elshtain calls Hobbes a "masterful reductionist." Political behavior is "reduced to obeying the rules and abiding by the contract" (Elshtain 2012, 107).

This contractual relationship between the Sovereign and the people also serves to define the liberties and responsibilities of the contractual counterparts. Not only is sovereign power redefined with respect to its origin, but the role and duty of the sovereign is also neatly circumscribed by Hobbes. The use of sovereign power is for the people's "Peace and Common Defence" (Hobbes 2007, 121). The sovereign should make it possible for every man to acquire not only "bare Preservation" but also "all other Contentments of life" (Hobbes 2007, 231). With the security and felicity of his subjects

in mind, the sovereign should make good laws, laws that are "Needfull, for the *Good of the People*, and withall *Perspicuous*" (Hobbes 2007, 237). Hobbes emphasizes that if the sovereign fails to perform the end of the Commonwealth, namely the "Peace and Defence of [the people]," the obligation of subjects to the sovereign will be dissolved (Hobbes 2007, 124). Their obedience is "understood to last as long, and no longer, than the power lasteth, by which he is able to protect them" (Hobbes 2007, 153).

Although more concerned with the powers of the monarch, Hobbes nonetheless expounds on the liberty and rights of subjects. Liberty, he famously maintains, is "the absence of externall Impediments: which Impediments, may oft take away part of a mans power to do what he would; but cannot hinder him from using the power left him, according as his judgement, and reason shall dictate him" (Hobbes 2007, 91). Free will however, does not mean that liberty "can be inferred of the will, desire, or inclination" (Hobbes 2007, 146). Rather, it consists in "doing what he has the will, desire, or inclination to doe" provided that he "finds no stop" (Hobbes 2007, 146). Therefore law and individual liberty are consistent. When a man is confronted by the choice of either breaking the law and facing punishment or keeping the law, he very likely abides "for feare of the law," but he also has "liberty to omit," and choose whether or not to incur the punishment (Hobbes 2007, 146). Within the boundaries of law, men have much liberty. They are free to do "what their own reasons shall suggest, for the most profitable to themselves" (Hobbes 2007, 147). Hobbes lists a number of liberties of subjects, "the Liberty to buy, and sell, and otherwise contract with one another; to choose their own aboad, their own diet, their own trade of life, and institute their children as they themselfves think fit," all in which free will could be maximized (Hobbes 2007, 148).

Of course, with the trial and execution of Charles I, a question arises: is it the divine right and prerogative of kings that constituted legitimate sovereignty, or is it the consent of the people upon which the government acted that was legitimate sovereignty? Charles I's prosecution verdict ran: "There is a contract and a bargain made between the King and his people . . . . the bond is reciprocal . . . . if this bond be once broken, farewell sovereignty!" (quoted in Jackson 2007, 60). This is not Hobbes's theory of contract, but it is a theory of contract nonetheless. Historically, the contractual idea was articulated by Hobbes and by others during his time, before it was modified by Locke and Rousseau. And the general trend of modification was towards the "sovereignty of the people."

Popular Sovereignty

While Bodin and Hobbes conceived the idea of sovereignty as a supreme power that could rival divine power, the political reality that evolved after the 17th century did not necessarily take the turn they prescribed. In liberal democratic regimes such as the United States, sovereignty was not undivided and supreme. One might as well ask: is there sovereignty in these regimes? If yes, then what is sovereignty in its liberal democratic form, as opposed to its monarchic form?

In Locke's conception, the people are sovereign and the majority make decisions. When "any number of men" has "consented to make a decision on community or government," "the majority have a right to act and conclude the rest" (Locke 2003, 142). Locke further adds that the community "should move that way whither the greater force carries it, which is the consent of the majority" (Locke 2003, 142). As Ian Shapiro recognizes, this is "popular sovereignty" (Shapiro in Locke 2003, 331).

Locke thus rejects Hobbes's conception of absolute sovereignty in the form of an executive power. "Absolute monarchs," he says, "are but men," and a man will "scarce be so just as to condemn himself for [a crime]" (Locke 2003, 105). "How much better it is than the state of nature," he asks, "where one man, commanding a multitude, has the liberty to be judge in his own case, and may do to all his subjects whatever he pleases, without the least liberty to any one to question or control those who execute his pleasure" (Locke 2003, 105). The people "acting as a body by majority rule" have greater legitimacy than "individuals or arbitrary powers acting unilaterally" (Shapiro in Locke 2003, 329). And indeed, one of Locke's primary concerns was to limit the power of arbitrary sovereignty in civil society. A civil society is to have three branches of government, the legislative, the executive, and the federative (Locke 2003, 164). The legislative is the "supreme power," but it by no means can be "absolutely arbitrary over the lives and fortunes of the people" (Locke 2003, 166, 159). It is "bound to dispense justice, . . . by promulgated, standing laws, and known authorized judges" (Locke 2003, 160).

Visiting America in the 1830s, Tocqueville marked the major shift to popular sovereignty in America. Tocqueville noted in his book *Of Democracy in America* the difference between "sovereignty" in France and "sovereignty" in America. He called both sovereignty, but noted that they were different in their scope of executive power. "Sovereignty in the United States is divided between the Union and the states, whereas among us it is one and compact; hence arises the first and the greatest difference" between the president and the king (Tocqueville 2000, 116). The president in the US is limited in his power, but the executive power in France "extends to everything"

(Tocqueville 2000, 115). While France's sovereignty is the sovereignty theorized by Bodin and Hobbes, America's sovereignty follows Locke's ideal, and even surpasses it, insofar as American "federalism" had no French counterpart.

Tocqueville condensed the definition of sovereignty down to one criterion: "the right to make laws" (Tocqueville 2000, 116). The French king is part of sovereignty because he has a part in making laws, but the president of the U.S. only executes laws and plays relatively little part in their making. He is therefore less sovereign and more of an "agent" (Tocqueville 2000, 116). The king also has the "the advantage of longevity" in office (Tocqueville 2000, 117). Yet, France and America can both be deemed "republican," because, in both, "public opinion" is the "dominant power" (Tocqueville 2000, 117). In France it is through revolutions, in American through elections and decrees that the people rule (Tocqueville 2000, 117).

Unlike Locke's vision, America is not the rule of the majority, but "the reign of those who are strongly for the majority" (Tocqueville 2000, 380). The republic is in the roots of America. Founded on "the enlightened will of the people," sovereignty in America resides with the people (Tocqueville 2000, 379). The rule of the people prevails through democracy—democratic institutions invoke the voice of the people and democratic elections express their political will (Jackson 2007, 81). In this democratic system "the most democratic laws were therefore voted in a rivalry among the men whose interests they bruised the most" (Tocqueville 2000, 54). Universal suffrage is eventually reached, and with a weak administration that is only an agent of the sovereign, the people are the supreme power who govern themselves (Tocqueville 2000, 55).

Tocqueville even proclaims, "The pole reigns over the American political world as does God over the universe" (Tocqueville 2000, 55).

Both the term "popular sovereignty" and "democracy" warrant further elucidation. A democracy could refer to "constitutional democracy" in which the people "as a whole are in some sense supreme" and restrain the power of government under the law; or it could refer to "peoples' democracy," which "installs the common people as the political community" and involves "placing the agencies and resources of the state at [the common people's] service" (Jackson 2007, 88-89). The American democracy is constitutional democracy, namely "the liberal conception of democracy," which "vests sovereignty in the people defined as a citizenry with fundamental civil and political rights" (Jackson 2007, 89). In a big-sized liberal democracy, the people "are constituted politically as an electorate based on universal suffrage" (Jackson 2007, 90). "Representative democracy" is the solution to giving popular sovereignty a functioning mechanism to govern the state (Jackson 2007, 90). On the other hand, popular sovereignty taken literally would have to result in the actual rule of the people. The constitution of France in 1791 declared: "no group can attribute sovereignty to itself nor can any individual arrogate it to himself" (quoted in Jackson 2007, 93). This declaration was preceded by Rousseau's notion of the "general will" of the people, which expresses not self-interest but the common good of the people, but ironically "demonstrate[d] clearly the close relation between popular sovereignty taken to the extreme, and totalitarianism" through the French revolution (J.L.Talmon 1970, 46-7, in Jackson 2007, 94).

While popular sovereignty is the present form of sovereignty that reconciles the wills of the people and the government, there are dangers to Locke's conception of government that he may well not have perceived. When he advocated for religious tolerance, separation of church and state, and diversity in *A Letter Concerning Toleration*, he could not have foreseen the extremes of diversity in the United States nowadays. This growth of diversity is accompanied by the growth of secularism, the ideology of which positions itself opposite of religious stances in a range of issues such as abortion and gay marriage. In a democracy where the majority rules and "every one is bound by that consent to be concluded by the majority," it is increasingly difficult to reach a consensus when a multitude of diverse opinions joust for a say in the political arena (Locke 2003, 142). How domestic sovereignty might evolve in light of new tensions and conflicts such as this is a question that remains to be answered.

CHAPTER THREE

Western Sovereignty from an International Perspective

Introduction

This chapter will trace the development of the concept of sovereignty in Europe from an international perspective. While sovereign nations effectively institutionalize diversity and conflict domestically, the international area is effectively anarchic and in strife. In Machiavelli's *Discourses on Livy*, the term "sovereignty" does not appear, but the concept of sovereignty as consolidated states that institutionalize diversity and conflict is implied. *Discourse on Livy* was published in 1517; in 1648, more than a century later, the Peace of Westphalia stipulated terms among sovereign states that interacted with each other on the international level as independent units. The international perspective on sovereignty can be further explicated by the state of nature in Hobbes's *Leviathan*. Hobbes does not discuss international relations explicitly, but we can infer his view on international relations by assuming that states act in the international realm as individuals will act in a state of nature. Based on this assumption, states interact and conflict with each other in a state of war. However, not all accounts of the state of nature conform to Hobbes's conception. Locke, in his *Second Treatise of Government*, portrays the state of nature as a community where individuals care about each other. However, without a common authority Locke's state of nature could easily turn into a conflict-prone state of war.

The Beginnings of Sovereignty

The political order of the Middle Ages had already begun to unravel by Machiavelli's time. Around 1300, England and France had "evolved into virtual sovereign states" and Sweden was to become one around Machiavelli's time as well (Philpott 1995, 29). Italy during the time of Machiavelli (around 1517) was a mixture of republics (such as the Republic of Florence), duchies (Duchy of Milan), Romagnan Papal States, and Kingdoms (Kingdom of Sicily). Machiavelli clearly saw the necessity of Italy consolidating to play a role on the stage of nation states. Written 45 years before Jean Bodin's *On Sovereignty,* his *Discourses on Livy* reveals the reality of sovereignty as consolidated states that institutionalize diversity and conflict, and implies that sovereign nation-states are the basic, stable units of the international arena.

In the *Discourses*, he discusses the present condition of Italy. Due to the corruptness of the Roman church, Italy has "lost all devotion and all religion," becoming wicked and corrupt as a consequence (Machiavelli 1996, 38). This same church has also kept Italy divided. Machiavelli advocates a united state as the alternative. "No province has ever been united or happy unless it has all come under obedience to one republic or to one prince, as happened to France and to Spain" (Machiavelli 1996, 38). A united state will not only promise happiness but order. When provinces are corrupt, their order comes not from "the goodness of the peoples," but "from having one king that maintains them united not only through his virtue but through the order of those kingdoms" (Machiavelli 1996, 110).

For Machiavelli Rome (its whole history from republic to empire) is the prototype and ideal of a successfully and powerfully consolidated state. He thus focuses on an

analysis of the transitions Rome underwent in the *Discourses*. He stresses that the successful Roman mode of government is not one of perfect internal harmony, but one that allows room for diversity and conflicts that arise due to diversity. In every republic the people and the great are the "two diverse humors" (Machiavelli 1996, 16). For Rome, the tumult between these two humors is "the first cause of keeping [it] free" (Machiavelli 1996, 16). It is through "disunion" between the two that institutions containing and channeling conflicts are established and laws are made in favor of freedom (Machiavelli 1996, 16). The upheavals in Rome from the Tarquins to the Gracchi, which spanned more than three hundred years, produced "laws and orders in benefit of public freedom" (Machiavelli 1996, 16). When the Tarquins were driven out of Rome, the nobility began to reveal its insolence towards the plebs. After many "confusions, noises, and dangers of scandals," the tribunes of the plebs were created to act as "intermediaries between the plebs and the Senate" (Machiavelli 1996, 15). Tumults offer a mode in which "the people can vent its ambition," and "the desires of free people are rarely pernicious to freedom" (Machiavelli 1996, 17). Especially for "these cities that wish to avail themselves of the people in important things," vents of ambition are very necessary (Machiavelli 1996, 17). Among all modes that plebs could express their wishes, they could "refuse to enroll their names to go to war" to express their wish to obtain a law (Machiavelli 1996, 16). In this way the people's wishes were more likely to be granted and they would be more willing to go to war for the republic. Modes that institutionalize conflict therefore also increase opportunities of expansion and build a more powerful republic (Machiavelli 1996, 21).

Another form of institutionalized conflict, namely accusations resolved by the jurisdiction system, is also "Necessary in a Republic to Maintain It in Freedom"

(Machiavelli 1996, 23). The jurisdiction system makes it possible to "accuse citizens to the people, or to some magistrate or council," and to punish the offenders who sin against the free state (Machiavelli 1996, 23). Machiavelli regards this system of accusation a normal mode through which "alternating humors that agitate [a republic] can be vented in a way ordered by the laws" (Machiavelli 1996, 24). When the multitude is not given a normal outlet for its "animus" against "one of its citizens," they might resort to "extraordinary modes that bring a whole republic to ruin" (Machiavelli 1996, 26).

In Machiavelli's sense, sovereignty is institutionalized conflict. Only when institutions are in place to channel conflicts to a productive outcome, can a state be free and powerful. If we extrapolate this domestic insight to the international arena, then we might say Machiavelli has anticipated the Peace of Westphalia, in so far as the treaty exemplified an effort to institutionalize conflict.

The Peace of Westphalia

The Protestant Reformation is an important piece of the Westphalian puzzle. Although a religious movement at its heart, it had far-reaching political consequences. Indeed it led to the breakup of the Holy Roman Empire and the fracturing of Europe into numerous different political units. Germany and The Netherlands, Protestant regions within Europe, sought protection from political authorities, and converted the religious movement into social power, eventually prompting their regions to stand against the Catholic Church and fight for sovereign statehood (Philpott 1995, 138). Protestant princes took control of churches and many more princes converted to Protestantism to strengthen their authority over the church (Philpott 1995, 151). "The Emperor would send his armies throughout the empire to quash the heretics, eliciting counter-attacks from

local princes who resisted interference in their lands" (Philpott 1995, 30). France and Sweden, which were "already independent of the empire," also fought for sovereignty. Sweden itself was protestant, and while France was Catholic, it was influenced by the ideology of the *politiques*, a party that advocated toleration, who in turn was influenced by the Protestant Reformation (Philpott 1995, 138, 168). These four nations, Germany, Netherlands, France and Sweden eventually battled against the Church in the Thirty Years' War (Philpott 1995, 139).

The Thirty Years' War ended with the Peace of Westphalia codifying sovereignty in 1648. The Peace of Westphalia established "a new system characterized by the coexistence of a multiplicity of states, each sovereign within its territory, equal to one another, and free from any external earthly authority" (Vinogradoff 1923). The entity of Europe was no longer held together as one political unit through the authority of the emperor and church, but split into states in which different princes had authority (Russett, Starr and Kinsella 1981, 47). Two complementary treaties were signed on 24 October 1648: The Treaty of Osnabrück, between Emperor Ferdinand III of the Holy Roman Empire and Queen Christina of Sweden and their respective allies, and The Treaty of Münster, between Emperor Ferdinand III and the King of France, Louis XIV and their respective allies.

A direct result of these treaties was that the political authority above sovereign states, the Holy Roman Empire, was removed. The state became the basic political unit that formed an international system. "Each and every elector, prince, and estate of the Roman Empire shall, by virtue of this treaty be established and confirmed in their possession of all their ancient rights, ... the free exercise of their territorial rights, both

spiritual and temporal, . . ." (Article VIII, Treaty of Osnabrück in in Brady and Glebe).

For Sweden specifically Article VI of The Treaty of Osnabrück (1648) reconfirmed it to

"possess full liberty" and to be "exempt from the Empire and in no way subject to the

tribunals and sentences of the said Empire." With respect to France the Treaty of Münster

stated that "the chief of dominion" and "right of sovereignty" of various bishoprics and

lands are "irrevocably incorporated with [the crown of France] forever." Authority for the

selection of religion was also delegated to the princes instead of the Hapsburg Emperor or

the Pope (Russett, Starr and Kinsella, 1981, 47). By stipulating thus, the transfer of

sovereign power both in the spiritual and temporal realms was complete in the documents.

The Peace of Westphalia also set up an international stage on which states could

interact, a stage on which players are equal and have common principals to abide by

when in conflict. With the treaty, republican and monarchical states were placed on equal

footing in this international arena, without intervention from a larger entity (Gross 1948,

26). Article V of The Treaty of Osnabrück (1648) stipulated, "in all other matters [other

than religion], there shall be a precise and mutual equality among the electors, princes,

and estates of both religions, to the degree that this provision conforms to the Empire's

constitution, the Imperial laws, and this treaty." "Each imperial estate shall freely and

forever enjoy the right of making alliances with other estates or with foreigners for its

own preservation and security . . ." (Article VIII, Treaty of Osnabrück in Brady and

Glebe). Westphalia also foresaw potential conflict in the international arena and

formulated guiding principals for international disputes. The Treaty of Münster stipulated

in Articles CXIII and CXXIV that the "the Offended shall before all things exhort the

Offender not to come to any Hostility, submitting the Cause to a friendly Composition, or

the ordinary Proceedings of Justice." No "State of the Empire" should "pursue his Right by Force and Arms," and disputes should be settled by "the means of ordinary Justice" (Article CXIII and CXXIV, The Treaty of Münster, in Brady and Glebe). Essentially, these provisions stipulated "a moratorium of war, the settlement of disputes by peaceful means, and for individual and collective sanctions against the aggressor, after a delay of three years" (Article CXIII and CXXIV, The Treaty of Münster, in Brady and Glebe). "Members of [the Empire] had been given their sovereign rights to conclude subsequent treaties" (Vollenhoven 1936, 86 quoted in Gross 1948, 25). In this, and various other provisions concerning commerce, navigation between states etc., the first beginning of an international order arose in the Peace of Westphalia (Gross 1948, 25).

As Philpott notes, "the history of sovereignty is the history of Westphalia's global expansion" (Philpott 1995, 30). Christianity gradually ceased to function as a criterion, and was replaced by the rule of a "secularized standard of civilization" (Philpott 1995, 34). The pope Innocent X refused to accept the treaty, but to no avail. In a 1662 scuffle, Louis XIV of France broke off relations with Italy and threatened to invade. The Pope Alexander VII had to surrender and send a legate to Paris (Jackson 2007, 53). States became the only polities to "exercise effective authority" and state sovereignty was absolute, leading to an implication of non-intervention.

For a state to be treated like a Westphalian state, it had to "demonstrate the fundamental attributes of a state," namely "effective control within its territory," and the participation in international agreements (Philpott 1995, 30). The East Indies, China, and the Ottoman Empire were all rivals and trading partners with Europe at some point, but were not granted Westphalian statehood status, nor did they grant Europe equal status to

themselves (Philpott 1995, 32). In the late nineteenth century and early twentieth century China became half colonized, with colonial powers intervening in its internal affairs, and "European powers exercised authority over assorted affairs which Westphalian states normally govern themselves," such as trade, tax, military bases, collection of customs etc. (Philpott 1995, 33). Twice, the rules of membership in the Westphalian system changed: protection of minorities and national self-determination (Philpott 1995, 36). According to Philpott, the rule to protect minorities only blossomed for a short while (Philpott 1995, 37). In the form of self-determination of national groups, this rule was only partially implemented by state governments granting degrees of autonomy to national groups within the state (Philpott 1995, 37). In the form of colonial independence, national self-determination was fully realized and recognized in the United Nations declaration in 1960: "all peoples have the right to self-determination" (Philpott 1995, 38).

Hobbes's State of Nature as the International Condition among States

At the same time as the Peace of Westphalia was established, Hobbes was actively engaged in theorizing about sovereign states on the international level, lending theoretical support to the stipulations in the Peace of Westphalia. Hobbes's conception of sovereignty serves as a foundation for the realist tradition, in which the international arena is one of anarchy where states only serve their own self interests and seek to maximize their own power.

Hobbes's state of nature is one in which no one has security, and individuals constantly war against one another for the end of self-preservation (Hobbes 2007, 91). Hobbes acknowledges that in reality "there had never been any time, wherein particular men were in a condition of warre one against another," but he goes on to say that the

"Persons of Soveraigne authority" are in a "posture of War" with other sovereigns (Hobbes 2007, 90). In this sense the individual that Hobbes describes in the state of nature is parallel to players on the international stage, and the natural state is equivalent to the international arena. His exposition on the individual in the state of nature extends naturally to the case of states in the international realm.

Hobbes pictures an international arena composed of roughly equal players that are prone to conflict, which conforms to what the Peace of Westphalia delineated. According to Hobbes, when faculties of mind and faculties of body are reckoned together, the difference between man and man is "not so considerable" (Hobbes 2007, 87). States interact "without a common Power to keep them all in awe," and are "in that condition which is called Warre" (Hobbes 2007, 88). It is a war in which every man is against every man, and not only consists of actual fighting, but of "the known disposition thereto" (Hobbes 2007, 88). Therefore, there is no way for any state to secure itself that is "so reasonable, as Anticipation" (Hobbes 2007, 87). The method for anticipation is "by force, or wiles, to master the persons of all men he can, so long, till he see no other power great enough to endanger him" (Hobbes 2007, 88). Sometimes states could also take pleasure "in contemplating their own power in the acts of conquest, which they pursue farther than their security requires" (Hobbes 2007, 88). Others who might be modest enough to not increase their power by invasion will not be able to subsist in the long run (Hobbes 2007, 88). Thus Hobbes reaches the conclusion that "such augmentation of dominion over men, being necessary to a man's conservation, it ought to be allowed him," a case that could be directly applied to the states (Hobbes 2007, 88).

Hobbes does not offer principles or solutions for resolving the terrible conflicts in such an environment—that is for the international realm. The state of nature is lawless. Rights to property do not exist in the state of nature. Anything that a man can grab is his for the period of time before the thing is grabbed by another man. There is "no *Mine* and *Thine* distinct," but "onely that to be every mans, that he can get; and for so long, as he can keep it" (Hobbes 2007, 90). There is no notion of right and wrong, justice or injustice, given that "where there is no common Power, there is no Law: where no Law, no Injustice" (Hobbes 2007, 90). The international space is one in which state vie with each other for expansion, and violence is an acceptable means for achieving that end. The fundamental law of nature in *Leviathan*, "to seek Peace, and follow it," leads to a civil society established with the priority that self-preservation and security is guaranteed, but outside this civil entity, affairs are still conducted in the state of nature (Hobbes 2007, 92). States in the state of nature are constantly engaged in conflict, in a war of all against all.

Locke: Conflict Inherent in a Social Nature

Locke offered a different view. The state of nature for him is "a state of peace, good-will, mutual assistance and preservation," and is distinguished from the state of war (Locke 2003, 90). Contrary to Hobbes, Locke thinks that man in the state of natural is a social animal and has social obligations. Men have "obligation to mutual love" (Locke 2003, 102). He refers to Hooker, who articulates on "the great maxims of justice and charity" (Locke 2003, 102). Quoting Hooker further, Locke expresses his opinion that "it is no less [men's] duty to love others than themselves" (Locke 2003, 102). Man has companionship, and knows how to love and care for others.

Hobbes and Locke further differ in their views on natural justice. Justice does not exist in Hobbes's state of nature. In the state of nature "there is no common Power, there is no Law: where no Law, no Injustice" (Hobbes 2007, 90). There is no inherent moral code either: "Force, and Fraud, are in warre the two Cardinall vertues" (Hobbes 2007, 90). On the contrary Locke thinks that there is a "law of nature to govern [man]" in the state of nature (Locke 2003, 102). The law of nature provides a standard of right and wrong, and every man has the power to judge and to punish. Every one has the right to punish the transgressor "to such a degree as may hinder [the law of nature's] violation," thus forming a system of justice (Locke 2003, 103). Locke believes that men could coexist peacefully in the state of nature "according to reason, ... with authority to judge between them" (Locke 2003, 108). On a closer look however, this system of justice is in fact flawed and results in potential conflict.

Locke recognizes that men's rationality might not be all that reliable to carry out punishment of a suitable degree. Man is not always a rational creature and could be affected by emotions and bias that blind him to reason. Every one in the state of nature is "both judge and executioner of the law of nature," and in cases concerning damage to themselves, "passion and revenge is very apt to carry them too far [in punishment]," while "negligence and unconcernedness . . . . make them too remiss in other men's [cases]" (Locke 2003, 155). The law of nature should be "plain and intelligible to all rational creatures," but both the bias of men and their "want of studying" the law of nature make it difficult for men to carry out the law of nature in an ideal way (Locke 2003, 155).

Even when human rationality is not compromised, the law of nature is ambiguous and subject to interpretation, thus making ground for conflict and strife. "The law of nature being unwritten, and so nowhere to be found, but in the minds of men," and is open to interpretation by individuals (Locke 2003, 160). "Everyone is judge, interpreter, and executioner . . . . in his own case," and inaccurate interpretations lead to unjust executions of law (Locke 2003, 160).

The extreme case of a dissolving state of nature where everyone could take revenge according to his or her own understanding of the natural law is the state of war. The state of war "is a state of enmity and destruction . . . . a sedate, settled design upon another man's life," and a man enters the state of war against "whom he has declared such an intention" (Locke 2003, 107). In the state of war, a community cannot exist, and man exists in an environment much more like Hobbes's state of nature. The fundamental law of nature is self preservation, therefore it is justifiable that a man could kill any other who uses force to take away his liberty and "get him in his power" (Locke 2003, 108). There is "no common superior on earth to appeal to for relief, and it is the want of such an appeal gives a man the right of war even against an aggressor, though he be in society, and a fellow-subject" (Locke 2003, 108). Thus state of war is one of chaos and violence: in the state of war "a thief, whom I cannot harm, but by appeal to the law, for having stolen all that I am worth, I may kill" (Locke 2003, 108).

For "the mutual preservation of [men's] lives, liberties, and estates," Locke concludes, there has to be "an established, settled, known law" and "a known and indifferent judge" (Locke 2003, 155). Such preservation cannot be achieved in a state of nature and is achieved by forming a commonwealth (Locke 2003, 155-157). The

sovereign installs order within the commonwealth, but outside of the commonwealth, it is likely to be an unstable, disorderly state of war.

Sovereignty Today

Following Westphalia, there have been two more revolutions in sovereignty, which interestingly enough are reversing the Westphalian state: the establishment of the European Community (now the European Union) and today's rise of humanitarian intervention (Philpott 1995, 41). But it could be argued that these two revolutions are not as significant as they seem. The European Union exists to perform sovereign functions that the states have ceded to the union, and could essentially become "one large and very significant sovereign state" (Jackson 2007, 153). In regards to the rise of humanitarian intervention, there has always been a concern for and intervention on the behalf of "humanitarianism and security" from religious toleration to minority rights to human rights (Krasner 2001, 22). Stephen Krasner writes, "The considerations that brought the great powers into the Balkans following the wars of the 1870s were hardly different from those that engaged NATO and Russia in the 1990s" (Krasner 2001, 22).

Let me end with three points about the future of sovereignty system. One, the system is evolving, but specific trends and degree of change are debatable. Globalization has been impacting the world for more than two hundred years, and to a certain degree "the sovereign states system and globalization emerged and evolved together" (Jackson 2007, 141). The states system will therefore "adapt to globalization just as it adapted to previous transformations of science, technology, economy, and society" and will evolve with this adaptation (Jackson 2007, 141-144). For example, Krasner recognizes that globalization is changing the scope of state control. There is an "erosion of national

currencies" and also an "erosion of national citizenship" (Krasner 2001, 22). While the right to vote is withheld to citizens, other residents of a country are still entitled to some rights (Krasner 2001, 23). Second, the European Union is a development in sovereignty in Europe but is not a solution that solves the problems of the state on a larger scale. The case of the European Union is "only for Europeans" given their specific experience with the two world wars and also the specific balancing against the Soviet Union in the Cold War (Krasner 2001, 27). Third, nations other than European countries have not exhibited such a tendency to give up certain sovereign rights for the end of integrating into one community. In the region of Asia, sovereignty is a principle firmly held on to by Asian countries, including modern China. Modern China's identity is one that prizes self-determination due to past experience with Western interference with internal affairs in the 19th and 20th century and the large scale Japanese invasion from 1937 to 1945. Strong world powers such as the U.S. and China also have far less reason than European nations to "[tie] their own hands" with supranational governance and undermine their own sovereignty (Krasner, 2001: 28). We are therefore in need of some kind of a breakthrough in sovereignty that can apply to the whole world. This leads us to an exploration of the Tianxai concept adopted in practice by ancient China.

CHAPTER FOUR

The Domestic Dimension of *tianxia*

Introduction

In ancient China *tianxia* plays a vital role in domestic order. *Tianxia's* role in domestic order pervades the moral, social and political order. The emperor is the Son of Heaven, who is entitled to "enjoy his reign of the world under the heaven" and is "the embodiment of virtue who by his very nature carried out the rites required for the continuing harmony of the universe" (*The Book of Poetry,* in Zhao 2006, 31; Mancall, in Fairbank 1968, 64). The title is self-proclaimed by rulers and is handed down since the very early years of China: "Since King Wu founded the Zhou dynasty (1134BC to 256BC), he proclaimed that he was the and from that time on all the future kings and emperors called themselves the "Son of Heaven" (The Governing Principles of Ancient China 360 Passages, 19). However, this Chinese version of divine right has its caveats. The "Son of Heaven" is mandated by Heaven to rule the world "only and only if" the people support him (Zhao 2006, 31). The people could choose either to follow or not to follow the Son of Heaven, and their political support is a direct sign of legitimacy to rule (Zhao 2006, 32). Conversely, the Son of Heaven should rule for the good of the people so as to gain their support. As Xunzi (313BC-238BC) claims, "Enjoying All-under-Heaven does not mean to receive the lands from people who are forced to give, but to satisfy all people with a good way of governance" (quoted in Zhao 2006, 30).

Moral Order under the Son of Heaven

The question follows how the Son of Heaven should carry out good governance. *Liu Tao*, a Taoist pre-Qin dynasty (221BC-207BC) military classic, recorded that King Wen (1102BC–1056BC) asked Tai Gong: "What should one do so that he can govern all under heaven?" Tai Gong said: "When your magnanimity encompasses tian-xia, you will be able to accommodate it. When your trustworthiness encompasses tian-xia, you will be able to make covenants with it. When your benevolence encompasses tian-xia, you will be able to embrace it. When your generosity and kindness encompasses tian-xia, you will be able to command it" (Chin Kung 2012, 91). This narrative shows that the moral goodness of the ruler is emphasized, and is believed to be the guarantee of good governance and popular support.

The Son of Heaven is expected to be a moral paradigm for the people, and to garner obedience by doing so. Confucius says, "When a leader respects and loves his parents, all his people will trust and rely on him, and so the nation will enjoy long and lasting stability" (Chin Kung 2012, 19). He would most importantly possess the quality of benevolence: "There are instances of individuals without benevolence who have got possession of a (single) state, but there has been no instance of the throne's being got by someone without benevolence" (Mencius, VII, V, xiii). The Son of Heaven is supposed to be personally upright, and personal morality will lead to stability of the realm. *Liu Tao* expresses this sentiment*:* "When a ruler loves his people as if they are his children, and all the people love him as if he is their father, the ruler can then be deemed as the Son of Heaven in its truest sense" (Chin Kung 2012, 290). Accordingly, the emperor will be able to bring distant peoples to obedience by his moral virtues: "If distant people do not

submit, then cultivate benevolent virtue so as to attract them" (Confucius, quoted in Yan 2011, 31).

When one surveys the history of even China itself, one can see that this belief has only limited viability. The emperor takes on a second personality other than the Son of Heaven—a more earthly role of *Huang Di.* This title represents the emperor as the top figure in the political hierarchy, governing from "the apex of organized civilization" (Fairbank 1968, 64). In this role the emperor could "stray from the path of true virtue, betray his role as Son of Heaven, and cause disharmony in the universe" (Fairbank 1968, 64). Nonetheless, Confucius' beliefs and that of many others bring morality to the foreground as the foremost requirement for legitimacy of rule, and for moral domestic order.

Social Order under the Son of Heaven

The Son of Heaven's moral example is also expected to be emulated by his people, and thus create social order. Moral education is supposed to be the emperor's responsibility since moral education leads to consistent moral understanding and commendable moral behavior among people and is therefore the key to social order. King Tang who founded the Shang dynasty (c. 17th century–c. 11th century) said: "If in my person as a king I have committed offenses, oh Lord of Heaven, do not hold the people of the myriad regions responsible. If people in the myriad regions committed offenses, let the punishment fall on me alone, for I have not taught people the proper way to behave" (Chin Kung 2012, 29). Society is self-corrective if built upon morality. Xunzi (c.313BC-238BC) says, "By being most sincere in implementing righteous deeds we can transform social customs from bad to good. Using benevolent and righteous values to educate

people, the habits of self-correction and doing good deeds will eventually become an acceptable social norm. In this respect, the society will progress in line with the moral principles of Heaven" (Chin Kung 2012, 119).

The "moral principles of Heaven" is incorporated into the concept of the "way of Heaven" (*Tiandao*), which possesses a distinctly moral connotation. The text of *I Ching,* an ancient divination text and the oldest of the Chinese classics, explicates the "way of Heaven" as: "Heaven in its motions preserves great harmony in union, enabling all creations to be peaceful and beneficial, and perpetually correct and firm. Heaven creates all things on the earth, and made every place under it serene and tranquil. Respected leaders in the myriad states follow the virtuous attributes of Heaven so they shall run their respective states in stable peace" (Chin Kung 2012, 85). The way of Heaven is the ultimate moral guide, and by following the way of Heaven societies can achieve social order. One way to institutionalize the moral guidance of the way of Heaven is through law. Laozi, the founder of the Taoist tradition mandates that "Man takes his law from the earth, which is serene and gentle, hardworking and uncomplicated, meritorious without showing off. The earth takes its law from the Heaven, giving without expecting rewards, allowing all things to grow without expecting returns. Heaven takes its law from the Dao, tranquil and quiet, allowing all things to form naturally, as they should be" (Chin Kung 2012, 86). Temporal law should be based on that of Heaven so that the relationship between man and man, man and nature, and ultimately the way of Heaven, is in harmony not conflict.

Apart from a role in moral education, the Son of Heaven also serves to "mediat[e] between the people and the unseen forces of [nature]" to maintain harmony (Fairbank

1942, 130). This social harmony is in part maintained by "the continuity between the present and the past" (Fairbank 1942, 130). The emperor carries out his mediatory role in this grand scheme of harmony by performing rites, such as the annual sacrifices performed at the Alter of Heave in Beijing, and by honoring the past, such as traditional rites and his ancestors. Natural calamity is a sign of "the disharmony between man and nature" which indicates a lack of adherence to moral teachings and ritual practices (Fairbank 1942, 131). Therefore when calamities occurred the emperor would issue a "penitential edict" to ask forgiveness from Heaven (Fairbank 1942, 131). Natural disasters are also regarded as signs from Heaven to warn the ruler that "a nation is about to fall because of the prevalence of moral decadence" (*Book of Han*, in Chin Kung 2012, 434). Ultimately, the Son of Heaven needs to be qualified by being moral, following the way of Heaven and successful in instituting social order. The emperor's seat is therefore "open to any qualified candidates who best know the Way (*Tao*) to improve the happiness of all peoples universally" (Zhao 2006, 32).

Political Order under the Son of Heaven

To the Chinese, the state "symbolizes the guardian of a moral order rather than the outcome of a political process" (Tu 1991, 17). But only depending on morality and example is not sufficient for governance of the whole realm—morality has to be institutionalized, and the way that the Chinese achieved this was through instituting the patriarchal order. The way of Heaven and morality are then used as pretext to establish this order that permeates all "political levels," the family, the state, and *tianxia* (Zhao 2006, 33). For the level of the family, *I Ching* expresses the overwhelming desire for the right order through each person acting his or her role and minding his or her place in the

system: "A woman has her correct place on the inside, a man has his correct place on the outside. This is the great equitable way of Heaven and earth. Each family is headed by 'leaders'—a term referring to the father and the mother—who are serious and principled. When parents fulfill their duties as parents; when children fulfill their duties as children; when elder brothers fulfill their duties as elder brothers; when younger brothers fulfill their duties as younger brothers; when a husband fulfills his duties as a husband; when a wife fulfills her duties as a wife, then the family will live in harmony. When all families live in harmony, the whole world will become stable and harmonious" (Chin Kung 2012, 200-201). The individual does not emphasize his or her individual freedom and wants, but performs his or her function within the harmonious political and social system. On the state level, the prince and his subjects are also required to fulfill their duties. *The Analects* records, "The duke Jing, of Qi, asked Confucius about government. Confucius replied, 'There is government, when the prince is prince, and the minister is minister; when the father is father, and the son is son'" (Legge 2014). Dong Zhongshu (179BC-104BC) derived from Confucius and Mencius "three principles and five virtues" (*San gang wu chang),* which then served as "a blueprint for the creation of civil society based on hierarchical order and moral cultivation" (Chan and Young 2012, 1). *San gang* is explicated as: "when the king and his subjects, father and son, husband and wife . . . are governed in accordance to a clear hierarchy and chain of command, only then society will be unified because human relations are regulated in line with the Way [of Heaven]" (quoted in Chan and Young 2012, 6). Without proper relationships between father and son, husband and wife, elder brother and younger brother, the political order on the state level could not be established. The Confucian notion of the state is therefore modeled on

the Confucian concept of the family (Qin 2007, 323). In Mencius's words, "the foundation of *tianxia* is the state, and the foundation of the state is the family" (Mencius, Book VII, v). This state-society relations of "all Chinese deriv[ing] their identities from being members of a group" gives Chinese politics exceptional stability, and is one of the secrets of the longevity of the civilization (Pye 1991, 64).

Zhao Tingyang emphasizes that this political structuring does not deny the value of the individual, but simply denies "the individual to be a political foundation or starting point" (Zhao 2006, 33). The individual by himself or herself is not sufficient to become a wholesome human being, and family is where the individual develops his morality (Zhao 2006, 26). Hence Zhao concludes that the Chinese ontology is an "*ontology of relations*" in contrast with "the Western *ontology of things*" (Zhao 2006, 33). Based on social relations, Chinese political aims at "a good society of peaceful order (*zhi)*," which is regarded as the prerequisite for individual happiness (Zhao 2006, 33).

The Lack of Them-Us Distinction

This "good society" indicates a unified political order, but does not necessarily point to a monolithic culture. The territory of China has fluctuated in the border areas, bringing each dynasty in contact with different tribes, groups and kingdoms on its borders and beyond, and absorbing different ethnicities into its territory at different times. During the Xia, Shang, Zhou dynasties and Warring State period, the culture of the Central Plains (*Zhong Yuan)*, an area that was the cradle of Chinese civilization, had been transformed by the cultures and ethnic groups on the borders (Ge 2014). During the Qin and Han dynasties (221BC-220AD), China started absorbing alien culture under the *tianxia* order and formed an essential Chinese cultural community. During the Southern

and Northern dynasties (420AD-589AD), the north and south were torn into numerous kingdoms, some of which were established by alien ethnic groups, and this achieved a further mixing of cultures (Ge 2014). In the Tang dynasty (618AD-907AD), the territory of China was over ten million square kilometers, but the borders of the empire were almost nonexistent (Liu 2014). If any tribe wanted to be a subject of the Chinese Court, its leaders could take on offices in China and be incorporated into the civilization (Ge 2014).

The cultural influence was also two-way, with the "sinification" and "barbarization" happening at the same time (Pines 2006, 87). It was at this time also that the culture from tribes north of Tang China synergized with that of traditional China and produced a new "Huaxia/China body" (translated, Ge 2014). On the part of China's political absorption of alien cultures, it was at least respectful of cultural differences in written records. The *Book of Rites* (*Liji),* a collection of rites of the Zhou dynasty (1134BC to 256BC), recorded the policy towards ethnic minorities, namely, to "respect their religion and not change their customs, to govern them with order but not change the lifestyle they are used to" (Liu 2014). In the Qing dynasty, Qianlong emperor learnt Chinese, Manchurian, Tibetan, Mongolian and Uyghur to maintain the cultural diversity of the empire.

It has been argued by numerous scholars that there was not a distinct "them" and "us" differentiation during ancient China (Qin 2007; Zhao 2011; Pines 2006). This is probably truer of the pre-Song dynasty era than after. With the demise of the Tang dynasty and two hundred fifty years of warfare, Song dynasty emerged in the early eleventh century as a primarily Han country (Ge 2014). Song only managed to govern the

Southern areas of China, and saw decreases in territory in all other border fronts (Ge 2014). As a result Song was surrounded by several other politically unified and militarily strong entities, and the notion of us-them became more pronounced as the dynasty became weaker and was put on the defensive to maintain its political order (Ge 2014).

It was then that the notion of "others" arose, and the population within China defined itself as "Han," and its country defined as mainly having a Confucian Han identity (Ge 2014). In this special historical context, "Sino-barbarian dichotomy" (*Huayizhibian)* was reaffirmed, and the so-called "Han ethnicity" which defines about 91.51% of the population in China was determined (Ge 2014). Song redefined its China as one that focused on maintaining its inner areas and not reaching out to its outer areas, leaving the western parts to be Islamized, and giving up the open and receptive stance that the Tang dynasty had (Ge, 2014). However, those areas had all been considerably influenced by Chinese civilization, which paved the way for future unification (Ge, 2014). In the later proceeding dynasties of Yuan and Ming, Song and its rivals around the border were again incorporated into one political entity (Ge, 2014). All in all, this "universalistic approach" of encompassing different territories and ethnicities into *tianxia* through civilizing "barbarians" demonstrates the "cultural/inclusive" rather than "ethnic/exclusive" mindset of *tianxia* (Pines 2006, 91).

Tianxia's Influence on Modern Chinese Domestic Politics

China still retains elements of the *tianxia* conception. What is most important is the unity of political order and social morality, not the unity of forms of governance, nor ethnic monism. China after the fall of its last dynasty did not split according to ethnicities and form nation states, but took on the identities of a state while still encompassing

multiple ethnic identities (Pye 1990, 58). The People's Republic of China encompasses people of the main Han ethnicity and 55 ethnic minorities, and its administrative units are a combination of provinces, direct-controlled municipalities (Shanghai, Beijing, Chongqing, Tianjin), autonomous regions (Xinjiang, Tibet) and special administrative regions (Hong Kong, Macau).

The Confucian order coupled with the political order of *tianxia* in the ancient dynasties was replaced by a "Confucian Leninism" moral order to "reenergiz[e] rulers' pretentions of moral superiority and invincibility" in the modern times (Pye 1990, 60). Marxism, essentially an ideological export from the West, was and remains internalized into modern China's official moral order.

However, the same cannot be said of other Western ideologies and values. "The inestimable importance of a moral order for political legitimacy" in China has resulted in the governing party's "dogmatic" belief that values can be grouped into three categories: "those that are foreign but useful," "those that are an abomination because they contaminate the purity of the core values," and those that should be "vigilantly guarded against and denounced" (Pye 1990, 62). The Chinese ruling party tries to drop Western ideas into one of these three baskets in order to deal with them accordingly; and this strategy is successful at times. For example, science and technology have been "elevated to the ranks of ...core values" (Pye 1990, 62). However, the flow of Western values and standards nowadays makes it impossible to keep these three baskets of categories "neatly separated," such as in the case of Western concepts like market economy, personal right etc. (Pye 1990, 62).

CHAPTER FIVE

The International Dimension of *tianxia*: The Tributary System

Introduction

The tributary system is the "diplomatic medium" through which China managed its foreign relations from 221 BC to the early 1800s (Qin 2007, 322; Fairbank and Têng 1941, 141). From the 1800s, the tributary system was replaced gradually by the British treaty system (Fairbank and Têng 1941, 135). With the tributary system, China provided security and trade to its vassal states, while the vassal states periodically paid tribute to the Chinese emperor as a form of political and cultural submission (Wang 2011, 146). It is a system less propelled by force than by cultural influence such as "the Confucian code of conduct and the use of the Chinese written language" (Fairbank and Têng 1941, 135). Those within the circle of Chinese culture are cultivated, while those who are outside of the sphere are "barbarians"(Fairbank and Têng 1941, 138). To be "transformed," the barbarians should recognize "the Emperor's mandate to rule all men" (Fairbank and Têng 1941, 138).

According to the "Collect Ceremonies of the Ming Dynasty" (*Ta-Ming chi-li*), the official record of ceremonies during the Ming period (1368-1644), tributes came from "distant barbarians" as far back as 1766 B.C. For example, an ancient Tibetan tribe offered gifts to the King T'ang of Yin. In the Song period more than forty states paid tribute (Fairbank and Têng 1941, 143). The Ming tributaries as of 1587 amounted to 50 countries, half a dozen of them sending tribute after the sea expeditions by Zheng He, the

47

mariner and diplomat who let seven state sponsored expeditions around Southeast Asia and the Indian Ocean Basin (1405-1433) (Fairbank and Têng 1941, 154). In a sense, the efforts of Zheng He could be "regarded as an effort to bring the sources of Chinese maritime trade into the formal structure of the tributary system" (Fairbank and Têng 1941, 204).

With the absence of a them-us distinction (see Chapter Four) in the conception of *tianxia*, the tributary system is also not conceived as an international system that has a clearly defined domestic-international distinction. The tributary system is modeled after the domestic "emperor-prince system" of the Zhou Dynasty (1046BC-256BC), which had the imperial court taking surrounding states as dependents due to unequal power balance (Qin 2007, 232). The tributary system therefore modeled the Middle Kingdom's relationship with other states upon the ideal of the extended influence of the Chinese court. China and its vassal states were regarded as a harmonious whole, "a society of states" in which suzerain-vassal relationships and tributary practices installed society-like hierarchy and order (Qin 2007, 323).

Characteristics of the Tributary System

Yuan-kang Wang points out several basic characteristics of the tributary system. First, the tributary system is pacifist. The expansion of the Chinese world order, embodied in the concept of *tianxia*, does not expand by force, but by culture. Fairbank, an advocate of the pacifist view claims: the "expansion [of the tributary system] is an expansion of a way of life" (Fairbank 1942, 129). "By entering the tribute system, foreign states accepted Chinese superiority not because of the overwhelming power of China but because of the cultural attractiveness of a higher civilization" (Wang 2011, 145). The

Confucian international order was benign and harmonious. Military force has "little utility in the tribute system" (Wang 2011, 145).

Secondly, the tributary system is hierarchical, essentially one of suzerain-vassal relationships. The hierarchy constitutes of three zones: the "Sinic Zone" of most "nearby and culturally similar tributaries," such as Korea and Vietnam; the "inner Asian zone" of tribes and states that were ethnically and culturally non-Chinese; the "Outer Zone" of "outer barbarians" consisting of countries at a further distance by land and by sea (Fairbank 1968, 2). Japan, a special case, was for a brief time included in the Sinic Zone, but later placed in the Outer Zone due to its refusal to pay tribute (Fairbank 1968, 2). In reality, China was also not at the top of the hierarchy at all times. The Southern Song dynasty（1127 AD-1279 AD) accepted inferior status as vassal state of Jin in 1138 (Yang, in Fairbank 1968, 20).

Wang counters the traditional cultural view of a "benevolent hierarchy," and contends that the tributary system is supported by force. Indeed, the tributary system is supported by a variety of means. Fairbank provides a list of the "principal repertoire of means" of contact with foreign political entities ranging from control (military, administrative), attraction (cultural and ideological, religious) to manipulation (material interest, diplomatic) (Fairbank 1968, 13). The Middle Kingdom provides military support to vassals, mediates among countries and interferes in domestic politics when necessary. It offers goods when countries comply, and coerces them into submission when countries do not. In the case of Semudera, China participated in its civil war to support the ruler friendly to China, eventually capturing the rebel leader Sekander and executing him in China (Wang 2011, 161).

China's annexation of Vietnam further demonstrates the role of force in the tribute system. North Vietnam had been controlled by China down to the tenth century since 179 BC when the emperor Wen-di of Han dynasty sent an ambassador bearing gifts to the Vietnam king to urge his submission as a tributary state (Fairbank 1968, 68). In the Ming dynasty, Chinese armies went into Vietnam to depose the usurper Le Qui-ly. However, with the material gains of conquering Vietnam so close at hand, the Ming army decided to continue its occupation of Vietnam after it had exiled the usurper. The conquest itself was lucrative, and the just cause turned into simply a cover for the real exploitative intentions (Fairbank 1968, 14; Wang 2011, 152). The widely touted Zheng He's expeditions (1405AD-1433AD) that were sometimes used as an example for China's far-reaching yet pacifist interactions with other countries, is also backed by the "threat of force" (Wang 2011, 164). Zheng He's fleets were the most powerful naval fleets in the world at that time, and were equipped with weapons and forces (Wang 2011, 167). As a direct attestation of the necessary presence of force in the system, Zheng He's visits to other countries brought in a rising number of foreign embassies who came to offer tribute to the Chinese Court, while the number dropped after he stopped going on expeditions (Wang 2011, 164).

This more "realist" account of ancient China's foreign relations fits into the narrative of politics for any country powerful enough to use its coercive power beyond its borders. While it is necessary to keep the practicalities of the tribute system in mind, what my thesis is more concerned with is the *theoretical justifications* of the system. For this purpose, Confucianism is what explains the tributary system.

Theoretical Foundations of the Tributary System

According to Confucianism, when a kingdom is "virtuous and benevolent," "foreign states will naturally come to pay tribute to the sage king" (Wang 2011, 180). The tributary system is therefore an institutionalization of "the age-old tradition of Chinese cultural superiority over the barbarians" (Fairbank and Têng 1941, 135). The Emperor is the Son of Heaven and his benevolence spread for all under heaven. "The tributaries were submissive and reverent, the Emperor was compassionate and condescending" (Fairbank and Têng 1941, 135). Hence, the number of tributary embassies to the imperial court "served as an important indicator of the virtue and legitimacy of the Chinese throne" (Wang 2011, 180).

Philosophically speaking, the tributary system integrated power and morality. Confucius (551-478 BC) claimed to "become a sage from inside and an emperor from outside" ("ruling others and cultivating himself"). In other words, morality inside brings power outside. Confucius said, "Do not impose upon others what you do not desire yourself," and Lao Tzu (854-770 BC) taught to "govern by doing nothing that is against nature" (*Wuweierzhi*). In other words, power comes from morality within which comes from nature. In Chinese traditional thinking, there was no Chinese Machiavelli who disconnected power and morality to such dramatic effect and far-reaching influence. The Son of Heaven had to possess power that stemmed from morality, and the state had to exercise "both political power and moral influence" (Wang 2005; Wang 2008, 263; Tu 1991, 17).

Through a tributary system based on the theoretical foundation of Confucianism, the Middle Kingdom performed essentially three functions, "maintaining stability and

trade," "providing public goods" and "governing the system" through balancing etc. (Qin 2007, 323). Trade with China was "exceedingly profitable, but was restricted within the tributary system," and merchants accompanied the tributary envoy as it made its way to the capital of China, trading along the way (Wang 2011, 148; Fairbank and Têng 1941, 139). Sometimes the tribute was simply a pretense for trading. Merchants from the eastern part of Rome created "sham embassies" since 166 A.D. (Fairbank and Têng 1941, 139). But for the Central Court, the relationship was not one based on economic benefits. The Court did not extract profit from the tributes, but saw it as a symbol of submission and usually bestowed goods of much higher worth to its vassal states (Wang 2011, 147).

Fairbank thus poses the attitude of China toward the tributary system as prioritizing the "moral value" over the "material value" (Fairbank and Têng 1941, 141). Princes paying tribute to the emperor is "the ritual appropriate to acknowledging the world order" in which the Son of Heaven governs all under the sky from his seat in the Middle Kingdom (Mancall, from Fairbank 1968, 64). To enter into the presence of the emperor required that rituals of tribute presentation be abided by (Mancall, from Fairbank 1968, 64). A refusal to perform the rituals was not only a personal insult to the emperor, but was "a discordant note in the universal scheme of things," disturbing the general harmony of the existing order (Mancall, from Fairbank 1968, 64).

The tributary political structure is not one of equality. It is "hierarchic and anti-egalitarian" (Fairbank 1968, 5). For the lands all under heaven, everywhere is within *tianxia*, and the difference is the proximity or distance from the center, which results in a difference of closeness in relations (Zhao 2011, 16). In the Zhou dynasty, the territory was divided into nine zones (*Jiu Fu*) with the outer most zone called *fan-fu*. The Chinese

character of *fan* meant "protecting, feudatory" and was later associated with "foreign, barbarian" (Yang, in Fairbank 1968, 20). More realistically, Chou divided territory into "the inner or royal domain" (*Neifu)* and the areas of the outer lords (*Waifu)* (Yang, in Fairbank 1968, 21). The Son of Heaven and his imperial court directly governed the inner domain of a thousand li (500 meters) radius land, and the lords governed the outer lands that surrounded the imperial court (Zhao 2011, 17). For the tributary system, the "Middle Kingdom" is situated in the center and the political radius expands outwards from there (Xu 2004). Jilin Xu, a prominent Chinese historian, likens the structure of the *tianxia* system to "concentric circles" (Xu 2004). The system does not have set perimeters, but China is to be located at the center, and be most prominent in influence and importance. It is admittedly a "Great Unity," (*Da Tong*), but one in which the center stands out in prominence.

The tributary system governing foreign relations also results in an unconsciousness of "internationalness" in the traditional Chinese worldview (Qin 2007, 322). The tributary system is not an "inter-state" or "inter-national" system also because there is no "legal equality" among units (Qin 2007, 323). There is also "no existence of a structure in which the ego stands against the other" (Qin 2007, 322). The "dichotomy of self and other" does not exist in the tributary system because the "concentric circles" of benevolence are supposed to radiate outwards from the center throughout the system and create an orderly scene of harmony (Qin 2007).

Practices of the Tributary System

For the Court the tributary system possessed practical purposes as well. It granted China more security with countries submitting to its dominance in the region, and with

the exchange of information about countries. When envoys are sent abroad to condole the death of foreign rulers, it is also a desirable time to gain information about the new ruler (Fairbank and Têng 1941, 141). "Chinese superiority in situations of military weakness" is also maintained through the system through methods such as "cessation of contact," "indoctrinating the foreigner in the Chinese view by cultural-ideological means," and "buying him off by honors or material inducements" etc. (Fairbank 1968, 11).

Not all countries that China interacted with were part of the tributary system. Similar to Fairbank, Zhang divides the world according to ancient Chinese understanding into "three areas of diminishing Chinese influence: inner vassal area, outer vassal are, and temporary non-vassal area" (Zhang 2009, 555). When superiority could not be maintained, China dealt with temporary non-vassal countries outside of the *tianxia* system and regarded them as equal states (Xu 2014). Treaties or alliances were established to acquire peace. In the Han dynasty it was the Xiongnu, in the Tang dynasty the Turkic peoples, the Tibetan Empire and Nanzhao, in the Song dynasty the Tangut Empire, the Khitan Empire, the Jurchen dynasty, in Ming dynasty the Oirats and the Mongolian state, and in the Qing dynasty it was mainly Russia. Russia was "first dealt with by use of military force" to curb its expansion, which was eventually agreed upon in the Treaty of Nerchinsk in 1689 (Fairbank 1968, 14). Russia's refusal to be a tribute state then resulted in a more stable solution to "permit trade without tribute on the far frontier" of Mai-mai-chen (Fairbank 1968, 14).

The Qing dynasty, the last dynasty in Chinese history, is the dynasty that had the most extensive interactions with European countries. When the Portuguese arrived by sea after 1500, a modification to the tributary system was made to accommodate them.

Relatively separated from the bulk of China by living on the peninsula at Macao, the Portuguese paid rent to local Chinese authorities and only went to nearby Canton to trade (Fairbank and Têng 1941, 178). This sort of "quarantine" continued and was adopted as the model for the East India Company, with foreigners being restricted to Canton factories until 1858 (Fairbank and Têng 1941, 178). Staple cargoes were only allowed to stay there, and only "token or luxury" goods advanced to the capital as tribute (Fairbank and Têng 1941, 205). In 1653 Holland sent an envoy to send tribute and cultivate trade. Eventually they were allowed to "trade once in two years" (Fairbank and Têng 1941, 179-180). When envoys died on a tribute mission, the Inner Secretariat composed a funeral address and conducted funeral arrangements (Fairbank and Têng 1941, 181). As Fairbank comments, European envoys were "assimilated to the traditional system" (Fairbank and Têng 1941, 181).

For the two centuries of the Qing dynasty from 1662 to 1860, with the exception of Korea sending embassies every year "with only one or two exceptions," the general number of embassies increased as "the dynasty grew older," not necessarily coinciding with the actual power of the dynasty (Fairbank and Têng 1941, 198). This increase could perhaps be explained by the increase of interest in commerce as European nations began to navigate the sea and trade more actively with non-European countries. Eventually, with the entry of countries like the United States, Sweden, and Denmark, who did not send tribute embassies to Peking while trading with Canton, trade gradually "eclipsed" the tributary system (Fairbank and Têng 1941, 206). A symbolic event happened in 1792 when George McCartney refused to kneel down and touch the ground with his forehead (kowtow) in front of the Chinese Emperor Qianlong. By refusing to perform the proper

ritual of a tributary envoy, he denied to recognize the Chinese Emperor Qianlong as the Son of Heaven and submit to the Son of Heaven's rule (Fairbank 1968, 64). Instead, he demanded equal status between the UK and China and to establish trading relations.

Tianxia's Influence on Modern Chinese International Relations

The influence of the tributary system's sinocentric outlook has never completely diminished. China's understanding of foreign relations as self-centered and self-aggrandizing along with "high politics" is continued for a long time. This pattern of thought understood countries "through the prism of China's own domestic experience," and possessed numerous misconceptions about China's own international image (Wang 2008, 261). Wang Yiwei lists a few such misconceptions such as: national strength is directly correlated with the respect a nation gets internationally and historical significance should translate into a certain degree of contemporary influence (Wang 2008, 261). The center–periphery habit produced a sense of superiority often referred to as the "Middle Kingdom syndrome" or "Central Country complex" (Tu 1991, 4). But in the 19th and 20th century China faced not only military but also cultural conquest by the West, and seemed to be losing "her dignity as a culture" (Levenson 1958, 100). As a result, China nowadays exists with both "a superiority complex and an inferiority complex," and struggles with its continuous search for identity (Pye 1990, 62).

On the more positive side, the peaceful and cultural side of the tributary system also manifests itself through the "cultural China" that exists today, largely overlooking national divisions. Cultural China could be examined through what Tu Weiming terms as the "three symbolic universes" (Tu 1991, 13). The first symbolic universe is "societies populated predominantly by cultural and ethnic Chinese," namely Mainland China,

Taiwan, Hong Kong and Singapore. The second symbolic universe is "Chinese communities throughout the world," such as in Malaysia, and other overseas Chinese (*huaqiao*)*,* and individuals who try to "bring their conceptions of China to their own linguistic communities" (Tu 1991, 14). The third symbolic universe is the Diaspora. For the diaspora, China is "home" and homeland (Tu 1991, 20). An exception to this homeland sentiment are some Southeast Asian regions such as the Philippines, where less Chinese immigration and more intermarriage have assimilated the diaspora into local culture and local identity (Tu 1991, 20). "Huaren," the term for people with Chinese cultural backgrounds and Chinese roots regardless of their citizenship represent the diaspora and is a term for cultural significance. The Tiananmen tragedy however, "may have irreversibly severed the emotional attachment of the diaspora Chinese to the homeland" (Tu 1991, 24). There has been a "remigration" of Chinese to North America and elsewhere due to apprehensions of the political regime in China. This was also exacerbated by the controversies surrounding Hong Kong's reunion with China in 1997 (Tu 1991, 23-24).

Academically, there has been a shift towards a historical perspective when considering contemporary issues within Chinese academia. The earliest shift has been with Zhao Tingyang's reconceptualization of *tianxia*. This and his other related works are heavily referred to in this thesis. According to Carlson (2011), Zhao cautions rather strongly that "we are currently facing the prospect of a 'failed world' in which 'American empire as winner takes all will … lead to the death of the world." He argues for a revival of the All-under-heaven system which "presupposes the Oneness of the world" by accepting the diversities of the world (Zhao 2006, 37).

He also presents the Confucian theory of "Jen," or benevolence, at the center of his theory of the *tianxia* system. The character of "Jen" is written as a combination of the characters "people" and "two." The oldest character for "Jen" was a combination of the characters "thousand" and "heart." This word, taken on its literal levels is concerned with a harmonious coexistence between and among people, and has been considered as "the only fundamental principle with which the harmony of peoples could be developed" (Zhao 2006, 35). The Confucian saying of "Do not unto others what you do not wish for yourself" is a negative of the Golden Rule and further presents an acceptance of the "other-ness" of the other "hearts" (Zhao 2006, 35). This presupposition of "oneness" and harmony differentiates the *tianxia* system from institutions such as the UN, which presuppose pluralism and universalism. Pluralism and universalism present a divergence that could not be easily reconciled, ultimately reinforcing the sovereign system through being "a political market for nations" (Zhao 2006, 37).

Zhao's visions are clearly based on the ancient model of *tianxia* that China once practiced. Further appraisal of Zhao's proposed system is left to Chapter six, but it is meaningful to see for now that the concept of *tianxia* is regaining vibrancy in China. Prominent international relations scholars in China such as Qin Yaqing, Wang Yiwei and Yan Xuetong have all picked up this line of though and incorporated it into their own research (Carlson 2011). There is indeed intellectual ground for considering *tianxia* in today's context and searching for implications it may have in the modern world.

CHAPTER SIX

Assessments

With the institutionalization of conflict in Western Sovereignty and the institutionalization of harmony in *tianxia*, many assessments can be made. The sovereign nation encapsulates conflict and embodies appealing ideals of self-government and individual liberties. *Tianxia* on the other hand, regards individual differences as of secondary importance and places different political units into a harmonious political order for the common benefit of all.

The *tianxia* system's downfall is that it seems to stifle inventiveness. European nation states tend to stimulate inventiveness due to their emphasis on individuality and diversity and the importance of making progress based on these qualities (Mill 2010, 66-9). Mill refers specifically to China when mentioning "the despotism of Custom" which in his view hinders creativity (Mill 2010, 66). He predicts, "if they are ever farther improved, it must be by foreigners" (Mill 2010, 67). From a slightly different but very relevant angle, Lucian Pye observes that compared to the West, the lack of the conflict of church and state in China resulted in no "legitimate outside critic of authority" and thus no clear outside spur for evolution and correction (Pye 1991, 67). Competition in the West was also kept vibrant by the form of "nation-state rivalry" which China lacked (Martin Jacques 2012, 28). In the Western imperial period, European rivalry was intense over colonies and served to propel the economies of European states forward at

maximum speed, finally awaking China to the harsh realities of external competition and pressure (Martin Jacques 2012, 26).

On the other hand, the system of sovereign states evolves around conflict. Domestically the conflict between the king and the pope resulted in absolute monarchy, and in turn the conflict between the king and his people resulted in popular sovereignty. On an international level the system of sovereignty has shown inadequacies in world governance. Viewing the international system from a Hobbesian perspective, the problem of the sovereign system is that is sees the world not as one but as units of nation-states interacting in a sphere of anarchy. In a system of nation-states, state boundaries are "boundaries that distinguish domestic from international and authority from anarchy" (Ansell and Weber, 1999: 74). The system cannot install order in the international realm as effectively as it does in the domestic realm. It lacks adequate incentive to conceive of a bigger unit of order than sovereignty and sometimes blocks conflict resolution due to conflicting national interests (Krasner, 2001: 22). *Tianxia* on the other hand, is a unit of order that sovereignty now lacks.

With today's most acute conflicts happening along civilizational fault lines like Ukraine and Syria, and unconventional coalitions forming not according to national division but religious sects, the world seems increasingly to confirm Huntington's prediction that "the fault lines between civilizations will be the battle lines of the future" (Huntington 1993, 22). Globalization "weaken[s] the nation state as a source of identity" and counter intuitively "intensif[ies] civilizational consciousness and awareness of differences between civilizations and commonalities within civilizations" (Huntington 1993, 25-26). The result is that "the Velvet Curtain of culture has replaced the Iron

Curtain of ideology" in Europe, dividing it along the lines of Protestant or Catholic versus Orthodox or Muslim (Huntington 1993, 30). We are seeing religion reviving as "a basis for identity and commitment" (Huntington 1993, 26). With economic regionalism increasing, cultural commonality might become "a prerequisite for economic integration" (Huntington 1993, 27). The system of sovereign states seems ill-equipped to deal with such challenges. This deficiency of the system could be remedied by the concept of *tianxia*.

Zhao Tingyang conceptualizes the *tianxia* concept that could be adapted for future application. Zhao proposes that the form of future global governance could be based on this "Chinese traditional conception of world governance" (Zhao 2006, 29). He criticizes the "internationality" concept upon which western IR is based, and argues for "worldness" which subsumes national interests, calling for a world system characterized by harmony and cooperation without hegemony (Zhang 2010). He refers to this harmony as the "Confucian improvement," namely to "achieve harmony as a mutually beneficial condition by creating a situation in which the common interests achieved by co-operation among players" will be bigger than individual benefit (Zhang 2010). The central idea is to "reconstitute the world along the lines of the family, thereby transforming the world into a home for all peoples" (Zhang 2010). The state is the larger family, and *tianxia* is the largest family, meeting the Chinese concept of "a family within the four seas" (Zhao 2006, 25).

This conception sounds like a philosophical invention of "utopia." In defining "common interests" there will undoubtedly be interests that need to be sacrificed, and the process of choosing which interests to constitute common interest that will create a great

common benefit is hard to execute without conflict, bias and personal interests. The idea of reconstituting the world along the lines of family is equally not persuasive due to the fact that different societies have already formed different social units other than the family that will be hard to realign into the family-bigger family structure.

I am also not proposing that China will be the one to establish a new dominant system that better suits world challenges at present and in the future. China's "sense of impotence, frustration, and humiliation, prompted by a curious mixture of political nationalism and cultural iconoclasm" has changed its identity in modern times (Tu 1994, 2). Instead of expanding its moral values with a system of *tianxia*, China is now rejecting the idea of moral values on the international stage, and relying on pragmatics to conduct its actions (Carlson, 2011). The tributary system itself is also clearly a relic of the past, since ideally states would be equal and independent, and not unequal and dependent on a central state. Qin Yaqing calls the tributary system "the radiation of the [Chinese] ego," with the distance away from the center resulting in different social status (Qin 2007, 323). While there are indeed signs that modern China does take on dependent states and attempt to make the relationship unequal through extending economic favors, China is not going to remain unchallenged like it was in ancient times.

Regardless of which country sets the rules in the future, the sovereign system is the dominant system, and has therefore the most chances to rejuvenate the world order. Elements of *tianxia* are worthy of consideration for the sovereignty system as it evolves in the light of global challenges. The first element is *tianxia's* perspective on political units. The *tianxia* system is not composed of units of nation-states, but thinks in civilizational and cultural terms, which applies more flexibly to transnational, regional

and global conflicts and challenges. The second element to be considered is *tianxia's* mindset on inter-group interaction. By attempting to encompass the world in a harmonious whole, it underplays the dichotomy of "them-us" and adopts a relatively pacifist mode of influence. Differences among ethnic groups and countries do not factor in as potential hindrances to the system. China as the "civilization-state" has considered issues from a civilizational perspective through the concept of *tianxia*, and achieved the cohesion of different ethnicities and different political units (Tu 1991, 17). Lucian Pye famously stated that modern China is "a civilization pretending to be a state" (Pye 1990, 58). Such harmonization is achieved through visualizing the world as one political unit without the dichotomy of the "other," and a harmonious vision of incorporating different ethnic and cultural groups into that one order.

It is a possibility that by taking elements of *tianxia* and incorporating it into the sovereignty system as the system evolves will result in a healthier evolution of the current system that will be able to meet global challenges more effectively. I am not proposing to discard the sovereignty system completely, but I recognize that the system is evolving and believe that the direction of evolution could be directed by our efforts. Through comparative analysis, it is possible to perceive what the current system lacks, and how it could adjust itself by borrowing from other systems that have existed in the past. Toynbee's words sum up my stance between the two systems I have discussed in the best way possible. I shall therefore close by quoting him at some length:

> Both the ultra-Western and the Chinese ways of life are potentially self-destructive. The Western way is explosive; the Chinese way—that is to say, the traditional Chinese way—is petrifying. At the same time, each of these two ways offers something that is indispensable for human welfare. The explosive Western way is dynamic; the petrifying Chinese way is stable. If the present dominance of the West is followed, as seems likely in the light of comparable past sequences of

events, by a unifying and blending of cultures, it is conceivable that Western dynamism might mate with Chinese stability in proportions that would produce a new way of life for all Mankind – a way that would not only permit Mankind's survival but would secure its welfare" (*A Study of History,* Toynbee, 443).

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