



## A Doctrine of Contingent Sovereignty

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*Abstract. Disengagement of U.S. leadership in recent years has not only emboldened the world's worst actors, it has enabled the emergence of non-state groups such as the Islamic State of Iraq and al-Sham (ISIS) to threaten a new and ominous trend in international affairs—the pursuit of sovereign authority by transnational violent-extremists. Amending both the Clausewitzian “remarkable trinity” to explicitly encompass non-state actors in war and the balance-of-power praxis of Talleyrand to one favoring dynamic repair of failed and failing states in diplomacy, the Doctrine of Contingent Sovereignty proposed in this article provides the requisite tools for bolstering legitimacy of weakened states while simultaneously affording the necessary freedom-of-action for the United States to secure its vital national interests. Analogous to the Monroe Doctrine of the nineteenth-century, which put putative expansionist powers on notice, this new doctrine asserts that the privilege of sovereignty remains contingent upon adherence to accepted international norms of behavior.*

The confluence of technological advances in global communications, the 24/7-news cycle, and cyberspace during the late twentieth century has enabled new forms of social organization, ushering in non-state actors able to wield powers previously reserved to sovereign entities. Simultaneously, a legacy of nineteenth-century colonialism, which has misaligned modern political borders with underlying ethnic and cultural boundaries, continues to complicate effective governance within the third world, concomitantly exacerbating twenty-first century failed-state trends. This nexus of ungoverned and poorly governed space combined with the aspirational agendas of transnational and irregular groups is the *casus belli* of increasing world conflict and a clear and present danger to Western civilization. The United States, as both progenitor and prime beneficiary of the current international system, can therefore ill-afford to further eschew the challenge of redefined sovereignty that the realities of the modern world have precipitated.

The Doctrine of Contingent Sovereignty promotes needed UN institutional reform to enhance responsiveness to mass atrocity such as violent Islamic extremism (strategic tenets), incentivizes compliance with benchmarks when intervention in

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failed-states becomes unavoidable (operational tenets), and promulgates essential new authorities and methods addressing non-state groups (tactical tenets).

A model interpreting the reasoned interactions among Clausewitzian actors across a *sovereignty spectrum* is applied to three representative case studies of foreign territorial administration (FTA) necessitated by failed or failing states. Ramifications are then analyzed integrating anticipatory harm perspectives from *jus bellum iustum* (just war theory) with those of recent United Nations *responsibility-to-protect* (R2P) resolutions to arrive at a doctrinal framework consistent with first-principles and validated by experience. Finally, specific policy proposals apply and synchronize all instruments of national power—now newly enhanced under this framework—for making America, and the international community, *safer* once again.

### Sovereignty Revisited

Although a central organizing principle of the existing international system, the concept of sovereignty emerged gradually, only receiving widespread recognition by statesmen after the fact. Indeed, it continues to exhibit a strained dialectic among internal and external forms even today.<sup>1</sup> The conclusion of the Thirty Years War (1618-1648) validated the authority of princes and free cities over the religious preference of their respective political communities at the expense of Holy Roman Emperor and Pope. The resulting Peace of Westphalia helped solidify the internal form—specifically, state as sole author of laws within its jurisdiction holding a monopoly over the organized use of violence.<sup>2</sup> The modern conception of the state as a “political entity deriving legitimacy through service to organic sovereign authority, inclusive of co-located population within defined territory,” followed as an historical corollary.<sup>3</sup> Reasoning in the eighteenth century, Christian Wolfe and Emmerich de Vattel equated states as political entities with moral persons to argue for external sovereignty, suggesting that mutual recognition of another state’s sovereign power and the associated right to make treaties are in accord with natural law.<sup>4</sup> Not surprisingly, the history of statecraft is largely an attempt by more powerful actors to restrict the jurisdictional authority of weaker ones. Ironically, it was not until the signing of the UN charter in 1945 that the world saw a rhetorical reversal in promoting external sovereignty<sup>5</sup>—the universal equality of all states especially less powerful ones—over prejudicial issues of internal sovereignty, even as many of these bolstered states collapsed internally.<sup>6</sup>

<sup>1</sup> Derek Croxton, “The Peace of Westphalia of 1648 and the Origins of Sovereignty,” *The International Historical Review*, Sept. 1999 (London, UK: Routledge), p. 571.

<sup>2</sup> Croxton, “The Peace of Westphalia of 1648 and the Origins of Sovereignty,” p. 573.

<sup>3</sup> Karl E. Nell, *Hearts-and-Minds: A Strategy of Conciliation, Coercion, or Commitment?* (Carlisle, PA: Peacekeeping and Stability Operations Institute, 2012), p. 30.

<sup>4</sup> Helen Thompson, “The Case for External Sovereignty,” *European Journal of International Relations*, 2006 (Cambridge, UK: Cambridge University Press), p. 258.

<sup>5</sup> Thompson, “The Case for External Sovereignty,” p. 256.

<sup>6</sup> Nicolas Lamy-Herbert, “State-building without Nation-building?: Legitimacy, State Failure, and the Limits of the Institutional Approach,” *Journal of Intervention and Statebuilding*, March 2009 (London, UK: Routledge), p. 32.

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