
Institutions for the Common Good

International protection regimes in
international society

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1 Introduction: international relations theory and the common good

The protection of foreign populations by collectivities of states is both an anomaly and an enduring practice in international relations.¹ It is an anomaly because in a system of sovereign states, each state is not only the final judge of its own interests, it is also required to provide the means to attain them.² Most political leaders recognize that their primary responsibility is toward their own citizens, and they tend to pursue this with extreme prejudice. Protecting groups and individuals within other states traps foreign policy officials into diverting resources from their own security needs without providing a significant domestic political benefit. Thus, the welfare of foreign populations falls well outside traditional definitions of state interest. Moreover, the institution of sovereignty is supposed to limit the jurisdiction of international organizations to regulating the relations *between* states, not *within* them. This has long been maintained through norms of coexistence, diplomatic practice, and international law, all of which are largely designed to shield states from interference in their internal affairs by outside powers.³

Yet international protection is also an enduring practice in diplomatic history. Since the evolution of the nation-state system in the sixteenth and seventeenth centuries, collectivities of states have alternately sought to protect religious minorities, dynastic families, national minorities,

¹ By foreign, I am simply referring to individuals and groups who are not citizens, subjects, or rulers of the states offering the guarantees.

² See Robert Art and Robert Jervis, "The Meaning of Anarchy," in Robert Art and Robert Jervis, eds., *International Politics: Anarchy, Force, Political Economy and Decisionmaking*, 2nd edition (Boston: Little, Brown and Company, 1985), p. 3.

³ See, for example, Gerhard von Glahn, *Law Among Nations: An Introduction to Public International Law* (Boston: Allyn and Bacon, 1996), p. 133 and Article 3/7 of the UN Charter.

ethnic communities, individual citizens, and refugees. This practice has not been random. Rather, during particular eras certain classes of people have been specifically singled out for protection while others have been consciously ignored. In fact, international commitments to protect groups or individuals within states have been an important component of every major diplomatic settlement since the Peace of Westphalia in 1648. While the institutional mechanisms for implementing these guarantees have varied in both strength and depth, in each case the participating states considered the commitments to be general obligations.

The open-ended nature of these protections suggests a level of commitment that usually is only found in military alliances. Historically the commitments made to target populations have tended to assume the form of general guarantees applied to entire classes of people. While targets have sometimes been selective and enforcement inconsistent, states have established elaborate protection mechanisms through international institutions such as the Holy Alliance, the League of Nations, the Council of Europe, the Organization for Security and Cooperation in Europe, and the United Nations. In each case, they committed themselves to protecting defined classes of people within countries far from their borders.

At the same time, there is no easily apparent conceptual thread that connects the choice of target populations; sometimes the protected group is a ruling class while at others it is a political community. For example, the protection of religious minorities was singled out in the multilateral treaties of Osnabrück and Munster (1648), that ended the Thirty Years War. Catholic and Protestant minorities were guaranteed the right to privately practice their religion without interference from the king, and public discrimination based on religion was prohibited within all realms.⁴ No other domestic group was afforded such protection. Following the end of the Napoleonic Wars in 1815, the Holy Alliance extended guarantees toward all recognized European dynastic families but not to the religious minorities within their realms.⁵ The existence of national minorities was barely even acknowledged.

The protected group changed again after World War I, when the League of Nations assumed the responsibility for enforcing a wide range of treaties which extended recognition and protection to *national*

⁴ For specific provisions see Clive Parry, ed., "Treaty of Osnabrück," in *The Consolidated Treaty Series*, vol. 1, 1648–1649 (Dobbs Ferry, NY: Oceana, 1969), Article V, sections 11–44.

⁵ See Harold Temperley, *The Foreign Policy of Canning, 1822–1827: England, the Neo-Holy Alliance and the New World* (London: G. Bell and Sons, 1925).

(defined as ethnic) minorities.⁶ Religious minorities were considered only in so far as their religion formed the basis of a national identity. A generation later, the Council of Europe ignored national minorities in favor of individual citizens as a target class, through the adoption of several broad-based and legally binding human rights conventions and protocols.⁷ The signatories agreed not only to establish basic standards, but also to create binding adjudication for enforcement. More recently, with the political and diplomatic integration of Eastern and Western European states the aftermath of the Cold War, the Organization for Security and Cooperation in Europe committed itself to protect the identity and corporate integrity of ethnic communities.⁸

The recurrence of these practices over time suggests that they constitute a definable form of institutional cooperation, which I call International Protection Regimes (IPRs). IPRs are multilateral institutions designed to protect clearly defined classes of people within sovereign states.⁹ They are initiated by either international organizations or coalitions of states, whose members make general commitments to defend the target population against violations either by their governments or other segments of their societies.

Any explanation for this phenomenon must confront not only the apparent contradiction between theory and practice, as suggested in the opening paragraphs, but also the concurrent duality of a recurring pattern (international protection) and a secular change (the identity of the protected group). This book does so by examining why collectivities of states make general commitments to protect foreign populations and how they decide which groups to protect. It offers an explanation for this practice by advancing a theory of cooperation that is based on a shared normative and political vision of international order. Its fundamental starting point is not the maximization of individual utility by autonomous actors in a competitive system, although this certainly

⁶ See Inis Claude, *National Minorities: An International Problem* (New York: Greenwood Press, 1955), pp. 17–20.

⁷ See the Council of Europe, “European Convention on Human Rights and Fundamental Freedoms,” Rome, November 4, 1950 and its five protocols: Paris, March 20, 1952; Strasbourg, May 6, 1963 (2 separate protocols); Strasbourg, September 16, 1963; and Strasbourg, January 20, 1966.

⁸ See, for example, Conference on Security and Cooperation in Europe, *The Challenges of Change: Helsinki Summit Declaration*, Helsinki, 10 July, 1992, Section II.

⁹ An institution is multilateral when it is based on generalized principles of conduct that apply without regard to the particularistic interests of the parties or the strategic exigencies that may exist in a particular occurrence. John Ruggie, “Multilateralism: The Anatomy of an Institution,” *International Organization*, vol. 46, no. 2 (1992), p. 571.

explains many forms of statecraft. Rather, the problematique is how a self-selected group of political actors in an international society attempt to maintain a cohesive political order by resolving its internal tensions and adapting to a changing environment. Such an order helps these actors to promote their preferred political values over competing ones and freezes the existing distribution of resources and authority within the region or system.

I begin with the premise that political leaders not only come to the international stage with preferences for particular outcomes, they also bring with them a vision of politics that reflects various forms of knowledge, beliefs, and values about the nature of security, justice, and order. These attributes help to structure their choices and determine what kinds of relationships they wish to create and maintain. From this perspective international politics is as much about defining the structures and rules of interaction as it is about achieving specific material benefits or gaining strategic advantage.

I argue that international protection regimes are part of a class of institutions that are designed to promote the “common good” for a collectivity of states.¹⁰ Unlike functional institutions that seek to provide consumable benefits to their participants, “institutions for the common good” are concerned with the preservation and general welfare of the international order itself. Their development requires a consensus among a group of core states around a basic set of political and normative principles. Since these types of institutions do not allocate resources among individual members, concerns with relative gains are muted; this allows states to make general commitments that apply in unforeseen circumstances. Thus, while these institutions may not provide direct benefits to participating states, they help to advance the broader goals of an international order by helping to maintain a preferred social or political framework through which states can cooperate and compete on the international stage.

Explaining international protection regimes

Traditionally, scholars have explained patterns of institutional cooperation by state interest, necessity, mutual advantage, and domestic

¹⁰ Institutions are relatively stable collections of practices and rules that define appropriate behavior for specific groups of actors in specific situations. James G. March and Johan P. Olsen, “The Institutional Dynamics of Political Orders,” *International Organization*, vol. 52, no. 4 (Autumn 1998), p. 948.

politics. That is, institutions have been presented as arenas for advancing parochial strategic or economic interests,¹¹ as mechanisms for achieving reciprocal gains,¹² and as transmission belts for projecting domestic politics onto the international field.¹³ Each of these approaches is “individualist” in the sense that they attempt to explain cooperation by appealing to characteristics of individual actors (such as their internal preferences or capabilities) within their strategic environments.¹⁴

Typically, individualist-based theories conceptualize institutions as mechanisms for achieving the optimum allocative efficiency of their participants. While there is some debate over the role of power and coercion in creating them, regimes are considered to be the outcome of bargaining among utility-maximizers. Whether the regimes are imposed by hegemonic powers or negotiated by a group of like-minded states, they represent an attempt to reach interdependent decisions by reconciling diverging and converging interests. From this perspective, the “logic of expected consequences” drives state behavior.¹⁵ Such logic is derived from a rational calculation of costs and benefits. While these benefits may sometimes be long term rather than immediate, political actors clearly expect some type of direct payoff.

Consequently, while this literature is highly varied and covers a wide range of cooperative and collaborative practices, its explanatory power is limited to situations in which political actors seek to achieve direct material benefits that cannot be obtained through unilateral action. Yet, the theoretical and empirical puzzles discussed in the introduction arise precisely because the benefits from making broad commitments to foreign populations in unforeseeable circumstances are not directly consumable by the participating states. Consequently, international protection regimes do not fit individualist models of institutions for several reasons.

¹¹ John Mearsheimer, “The False Promise of International Institutions,” in Michael Brown *et al.*, eds., *Theories of War and Peace* (Cambridge, MA: The MIT Press, 1998), p. 339.

¹² Robert Keohane, “A Functional Theory of Regimes,” in Stephen Krasner, ed., *International Regimes* (Ithaca: Cornell University Press, 1982).

¹³ Andrew Moravcsik, “Explaining International Human Rights Regimes: Liberal Theory and Western Europe,” *European Journal of International Relations*, vol. 1 (1993).

¹⁴ I borrow the term “individualist” from James Caporaso in “International Relations Theory and Multilateralism: The Search for Foundations,” *International Organization*, vol. 46, no. 3 (Summer 1992).

¹⁵ James G. March and Johan P. Olsen, “The Institutional Dynamics of International Political Orders,” in Peter Katzenstein *et al.*, eds., *Exploration and Contestation in the Study of World Politics* (Cambridge, MA: The MIT Press, 2000), pp. 309–11.

First, IPRs are not designed to provide a public good, such as open trade routes or reduced hydrocarbon emissions. Nor are they specifically created to solve collaboration problems such as achieving arms control or providing stable currency convertibility.¹⁶ They do not resolve dilemmas of common aversion or common interest.¹⁷ Unlike collective security systems, protection regimes do not affect utility calculations by linking state security with general commitments to protect territorial integrity and promote nonaggression. And, unlike other types of security regimes, they do not attempt to increase each state's relative safety through mutual restraint and adjustment of military policy. Finally, they differ from other forms of collective intervention in that they are not targeted at particular states, but rather at general classes of states, and, more specifically, at general classes of people within these states.

International protection regimes are particularly challenging for neo-realist theories of international relations. In a realist world, states are predisposed toward self-help and parochialism and resist becoming entangled in any commitments or institutions that significantly restrict their freedom of action. Great powers therefore hesitate to get involved in potentially violent situations where their vital interests are not threatened, particularly if this means expending their own political and material resources.¹⁸ Participating in multilateral efforts to guarantee the security of foreign populations both constrains a state's ability to act unilaterally while also tying it to open-ended commitments that could apply in circumstances that may not support its strategic objectives in the future.¹⁹ As a result, a realist foreign policy eschews unnecessary foreign entanglements and avoids taking risks that do not further the welfare of either the state or its citizens.²⁰

¹⁶ Collaboration problems arise when the pursuit of one's preferred strategy results in suboptimal outcome for all sides. Institutions can help resolve this dilemma by facilitating mutual policy adjustment, extending the shadow of the future and sanctioning defectors. See, for example, Lisa Martin, "The Rational State Choice of Multilateralism," in John G. Ruggie, ed., *Multilateralism Matters: The Theory and Practice of an Institutional Form* (New York: Columbia University Press, 1993), pp. 95–100.

¹⁷ See Arthur Stein, "Coordination and Collaboration: Regimes in an Anarchic World," *International Organization*, vol. 36, no. 2 (Spring 1982).

¹⁸ Mearsheimer, "The False Promise of International Institutions," pp. 356 and 357.

¹⁹ This problem in part underlies the realist opposition to collective security regimes. See, for example, Richard K. Betts, "Systems of Peace or Causes of War?," *International Security*, vol. 17 (1992).

²⁰ See, for example, Michael Mandelbaum, "Foreign Policy as Social Work," *Foreign Affairs* (January/February 1996), pp. 16–32.

From a realist perspective, protecting foreign populations should also have significant relative gains implications that preclude state involvement.²¹ To the extent that protection systems strengthen some political actors at the expense of others, this could undermine the government of a potential ally just as it could fortify that of a potential adversary. Without knowing in advance which powers might benefit from a particular protection system, participating states cannot calculate how the regime will ultimately affect the distribution of political influence and strategic advantage in a given region. Indeed, according to realist logic, states should be more likely to try to enhance their own strategic position by exploiting conflicts between domestic actors than attempting to settle them on the basis of an abstract principle.

According to realist approaches, institutions are forums for acting out power relationships and implementing hegemonic preferences.²² Therefore, in order to account for IPRs, realist theories would have to establish a clear positive relationship between a hegemonic interest in protecting specific populations and the creation of multilateral regimes that do so. Yet the most we can derive from these theories themselves are *ad hoc* explanations that are based on the particularities of each case. Stephen Krasner argues, for example, that intervention to alter the relations between rulers and subjects has been motivated by a variety of factors, all related to the interests of the intervener.²³ Quite simply, protected groups are objects for the pursuit of powerful states' strategic, economic or ideological interests.

From this perspective, a state or group of states may support a foreign population in order to weaken a target government or disrupt a potential alliance with an adversary. In these types of cases, however, theories based on state power and interest can account only for a particular action, not for a *general* guarantee, particularly one of a multilateral nature. Nor can they account for the recurrence of IPRs over time under very different strategic and geopolitical circumstances.

²¹ On the relative gains problem in international relations, see Joseph Grieco, "Anarchy and the Limits of Cooperation: A Realist Critique of the Newest Liberal Institutionalism," *International Organization*, vol. 42 (1988) and Kenneth Waltz, *Theory of International Politics* (New York: Random House, 1979).

²² Mearsheimer, "The False Promise of International Institutions," p. 339.

²³ Stephen Krasner, "Sovereignty and Intervention," in Gene M. Lyons and Michael Mastanduno, eds., *Beyond Westphalia? State Sovereignty and International Intervention* (Baltimore: The Johns Hopkins University Press, 1995). For an application of this argument to human and minority rights protection see Stephen Krasner, *Sovereignty: Organized Hypocrisy* (Princeton: Princeton University Press, 1999), chs. 3 and 4.

Neoliberal theories of institutions can more easily accommodate the idea of a multilateral protection regime. Although the study of regimes has tended to focus primarily on economic and social issues, neoliberal theories do not preclude the possibility of establishing multilateral security institutions.²⁴ Regime theories show how a convergence of self-interest among states can facilitate cooperation in defined issue areas when independent action would result in pareto-inferior outcomes.²⁵ They argue that the nature and scope of institutional cooperation reflects the strategic incentives and constraints posed by different types of cooperation problems. In doing so, they try to specify the conditions that can lead to the creation of cooperative institutions by showing how regimes can help states to overcome collective action problems, make commitments more credible and reduce uncertainty and mistrust. In short, neoliberals conceive of institutions as solutions to dilemmas of strategic interaction.²⁶

By showing how certain types of institutions can overcome relative gains concerns and fears of cheating, institutionalists address some of the neorealist barriers to establishing a multilateral protection regime. While conceding that few states wish to cede their right to self-help, institutionalists nevertheless argue that in an interdependent world, states will accept limits on their operational sovereignty out of necessity when doing so will increase their effectiveness and provide material benefits.²⁷ Thus, unlike neorealist theories, liberal institutionalist approaches can account for the bargaining processes that could lead to the creation of a protection regime. So long as the participating states find mutual benefit in protecting the populations of other nations, there are few inherent barriers to creating the regime (though there may well be many practical problems).

Like neorealists, however, institutionalists can not account for the motivation to establish one. In a neoliberal world, states participate in

²⁴ For a dissenting view of this statement see Robert Jervis, "Security Regimes," in Stephen Krasner, ed., *International Regimes* (Ithaca: Cornell University Press, 1983). For a supportive study see Harold Müller, "The Internationalization of Principles, Norms, and Rules by Governments: The Case of Security Regimes," in, Volker Rittberger, ed., *Regime Theory and International Relations* (New York: Oxford University Press, 1993).

²⁵ See for example Robert Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton: Princeton University Press, 1984).

²⁶ Robert Keohane, "Multilateralism: An Agenda for Research," *International Journal*, vol. 45 (August 1990).

²⁷ Robert Keohane, "Sovereignty, Interdependence, and International Institutions," in Linda B. Miller and Michael Joseph Smith, eds., *Ideas and Ideals: Essays on Politics in Honor of Stanley Hoffman* (Boulder: Westview Press, 1993), p. 91.

regimes only to achieve *national* objectives in an environment of perceived international interdependence.²⁸ Governments join the GATT, for example, because they realize that they must trade in order to prosper and their ability to export their own goods depends upon reciprocal reductions in trade barriers. For this reason, institutional theories are primarily concerned with how the benefits of cooperation are distributed and the degree to which all members are in practice made better off by the presence of institutions.²⁹

Unlike GATT, however, most of the benefits from a multilateral protection system are not enjoyed directly by the participating states or their domestic constituents, but by the collectivity of states as a whole, and more specifically, by the protected population. It is not clear from neoliberal theory why states should be concerned with the welfare of foreign populations. The institutionalist emphasis on expected utility and reciprocal benefit eliminate the need to consider questions of obligation or justice. This makes it difficult to apply neoliberal theories to explain any common interest that cannot be reduced to the sum of individual interests.

In neoliberal models, norms serve as external constraints and regulatory mechanisms rather than as expressions of preferred values. States follow the rules and procedures of the regime because of the functional benefits they provide. Institutions, however, not only produce benefits to participants; they also reproduce and occasionally alter the structures that define a given system. Returning to the previous example, the GATT has not only been a mechanism for opening markets to participating states, it has also been a major force in promoting and expanding the Western liberal economic order. The idea of a trade regime designed to reduce barriers would be unthinkable without some prior commitment toward a liberal world economy. Therefore, while neoliberal theories can explain a wide range of functional regimes, they cannot explain the development of institutions that emerge primarily to pursue broader social goals.

Liberal theories also approach institutions as mechanisms for realizing national preferences, however their starting point is not state interest but rather that of individuals and groups *within* states. Domestic politics

²⁸ John Donnelly, "International Human Rights: A Regime Analysis," *International Organization*, vol. 40, no. 3 (1984).

²⁹ Lisa Martin, "An Institutional View: International Institutions and State Strategies," in T.V. Paul and John Hall, eds., *International Order and the Future of World Politics* (Cambridge: Cambridge University Press, 1999), p. 93.

is the first cut for explaining state behavior and systemic constraints are less important than internal ones. In the liberal paradigm, the fundamental actors are the autonomous, rational individuals and groups who engage in transactions on the basis of self-interest and risk-averse preferences.³⁰ Governments represent a subset of their societies whose dominant interests generate and constrain the underlying preferences and identities of states in the international system. The development of international organizations and institutions can therefore best be explained through the sequential analysis of national preference formation and strategic interaction among sovereign states.³¹

From a liberal perspective, then, an international protection regime would represent a convergence of interests among government officials from various countries acting on behalf of the dominant domestic groups within their respective societies. They would emerge through a series of "two-level games" whereby state officials attempt to reconcile the interests of their societies with those of others. Human rights regimes, for example, arise when domestic social movements and interest groups pressure their political leaders to make human rights a priority in the pursuit of foreign policy. Thus, international human rights institutions would emerge among states that already practice human rights domestically themselves.

The advantage of a liberal approach is that it does not place any inherent limits on the kinds of policies that states may choose to pursue. State interest reflects domestic politics rather than some external constraint imposed by the structure of the international system. Therefore, unlike realism, for example, states are not automatically constrained by balance of power considerations nor do international institutions have to necessarily serve some type of state interest. In fact, states could go so far as to cede much of their sovereignty in economic matters if it serves the interests of their domestic constituencies.³² This creates more space from which one can try to explain international protection regimes.

³⁰ Andrew Moravcsik, "Taking Preferences Seriously: A Liberal Theory of International Politics," *International Organization*, vol. 51 (1997).

³¹ See Andrew Moravcsik, "Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach," *Journal of Common Market Studies*, vol. 31, no. 4 (December 1993), p. 481.

³² See, for example, Andrew Moravcsik, *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht* (Ithaca: Cornell University Press, 1998).

According to the liberal model, the internal political organization of a state is a key variable in explaining the kinds of policies its government would pursue. That is why, for example, democracies are not likely to wage war against other democracies, and liberal states are more likely to conduct their foreign relations on the basis of international law and liberal political norms.³³ One can infer from this that international protection regimes would reflect largely the domestic politics of the states that establish them. For example, liberal states would be more likely to protect individual citizens; monarchies to protect monarchs; and Islamic states to protect Moslems. This would explain how political leaders decide which populations to protect, and would account for the secular change discussed in the introduction (the identity of the target populations).

This still leaves us with the question of *why* domestic individuals and/or groups would wish potentially to risk the lives and treasure of their fellow citizens on behalf of a foreign population. Liberal theory assumes that individuals and groups within society are utility-maximizing and risk-averse and therefore it is difficult to understand how the domestic interest is served in promoting an abstract principle that does not provide any material benefits to the citizenry. While it is conceivable that some domestic interest groups might see an ideological or humanitarian interest in such activities, the influence of these groups on foreign policy tends to be weak, at least in comparison to their influence on domestic policy. In practice, foreign policy elites tend to be more disposed toward making and keeping multilateral commitments than domestic political actors; relationships among diplomats, heads of state, and foreign policy officials are more likely to produce an international consensus than a convergence of domestic interest groups.³⁴ In fact, studies have shown that the *greater* the autonomy of these elites from domestic pressures, the more likely it is that they will pursue multilateral policies.³⁵

³³ Anne-Marie Burley, "Toward an Age of Liberal Nations," *Harvard International Law Journal*, vol. 33, no. 2 (Spring 1992), p. 397.

³⁴ As Theda Skocpol argues, the linkages of states into transnational structures and into international flows of communication may encourage leading state officials to pursue independent policies even in the face of domestic indifference or opposition. See her "Bringing the State Back In: Strategies of Analysis in Current Research," in Peter Evans, Dietrich Rueschemeyer, and Theda Skocpol, eds., *Bringing the State Back In* (Cambridge: Cambridge University Press, 1985), p. 9.

³⁵ See, for example, Robert Putnam, "Diplomacy and Domestic Politics: The Logic of Two-Level Games," *International Organization*, vol. 42, no. 3 (Summer 1988), p. 449.

Institutions for the common good

If we cannot derive a motivation to extend multilateral protection guarantees to foreign populations from the strategic or economic preferences of individual states, we need a concept of interest that transcends parochial definitions of expected utility. That is, states must recognize some type of benefit or value that cannot be reduced to calculations of individual self-interest, suggesting some type of collective interest. A collective interest differs from overlapping self-interest in that it has an existence independent of the specific actors who comprise the collective at a particular time. For example, lawyers may share a collective interest in safeguarding the integrity of the legal profession, regardless of who happens to be a member of the bar at any particular time. Similarly, political leaders may perceive a collective international interest in maintaining international law or the principle of sovereignty regardless of which states populate the system in a given era. In the following pages, I suggest that a common political interest emerges from within a social structure (or society) when political actors recognize a link between their fundamental goals and the cohesion of the collectivity. Under these circumstances, they will act to preserve the values and institutions of the political order. When they do so, they are acting on behalf of the common good.

The common good is a value that represents the fundamental goals of a collectivity and is in many ways at the core of its *raison d'être*. As such, the common good is concerned with the preservation and general welfare of the collectivity itself.³⁶ As Aristotle argues, all political associations have some conception of the good; those who cooperate in furthering the progress of the association share of the common good, which is the expressed aim of their association.³⁷ Similarly, Alasdair MacIntyre defines the common good as the "good" of a type of association that is not reducible to that of the individual members.³⁸ The stability of any ongoing relationship or association requires individuals to act on behalf of the common good when they believe it to be necessary for the continued progress of the collectivity. Actions that may not be consistent with a parochial definition of interest are sometimes necessary for the

³⁶ Rousseau refers to this as the general will, which he sharply distinguishes from the will of all. The latter is more consistent with the institutionalist concept of mutual self-interest. See Jean-Jacques Rousseau, *Rousseau's Political Writings*, ed. Alan Ritter and Julia Conaway Bondanella (New York: W. W. Norton and Co., 1988), p. 148.

³⁷ Aristotle, *Politics*, Book III (Oxford: Oxford University Press, 1995), p. 98.

³⁸ Alasdair MacIntyre, *After Virtue* (Notre Dame, IN: University of Notre Dame Press, 1984).

long-term maintenance of the community or society of which individuals are a part. To the extent that states find value in such a community – such as the “club” of advanced industrial countries or a regional security structure – their leaders often realize the necessity of taking positive action toward its progress. That is why, for example, countries will contribute their own soldiers to serve as United Nations peacekeepers in regions where they have no security or economic interest.

The idea of a common good is not a rejection of individual interest. In fact, it derives from a recognition that parochial interests always exist, often conflict and – all other things being equal – usually dominate. Common interests, Rousseau argues, arise in opposition to the interest of each individual. If there were not any different interests, the common interest would hardly exist and would never meet any obstacle; everything would proceed on its own and politics would cease to be an art.³⁹ Quite simply, a common good arises precisely because in many cases individual interests can not be reconciled. Thus, for a collectivity – any collectivity – to remain cohesive, the common good must remain apart from individual interest. This idea is fundamental to any political or legal system, including the institution of international law. For this reason, the principle of *pacta sunt servanda* (agreements must be observed) is not a matter of convenience but rather a fundamental value that allows “international relations” to exist at all. While there is always an ongoing tension between parochial interest and the common good, we should expect individuals who are committed to maintaining a particular political order to act on its behalf when they believe that the cohesion of the collectivity or its underlying values are at stake.

Certainly the concept of the “common good” is a controversial one, and not only in the field of international relations. It has often served as a shield under which particularistic interests are promoted under the guise of promoting the general welfare. Most students of international relations are mindful of E. H. Carr’s observation that dominant groups often identify themselves with the community as a whole and then use their resources to impose their view of life on the community.⁴⁰ Witness, for example, how political leaders often evoke the “international community” to suggest broad support for policies that further their parochial state interests. However, nothing in this discussion implies that a collectivity’s definition of the common good is fair, just, or even the best

³⁹ Rousseau, *Rousseau’s Political Writings*, p. 100, fn. 9.

⁴⁰ E. H. Carr, *The Twenty Years’ Crisis, 1919–1939: An Introduction to the Study of International Relations* (New York: Harper and Row, 1939), p. 79.

one available (in a normative sense). The principles of any international order reflect a specific group of states' collective views of justice, stability, and interest. They are not universal values, only the dominant or prevailing ones. As Inis Claude points out, there is a tendency for a single concept of legitimacy to become dominant in a particular era and political leaders tend to accept obligations that derive from those principles.⁴¹ Those promoting alternative values would likely not agree with the "consensus." Yet all associations have dissidents, and a cohesive political order can usually accommodate them, at least up to a point. It is only when the dissidents' views become mainstream among the members of a society that the consensus unravels.

For this reason, I develop my concept of the common good in international affairs from state practice and the consciousness of state leaders, rather than deriving it from abstract theories of security and anarchy.

The common good and an international society of states

For a common good to arise among a collection of political actors, there must be a shared sense that all members have a positive stake in building and maintaining long-term internal relationships. A system of autonomous units coexisting in an environment of unregulated competition will not provide the sufficient condition for such a situation to develop, even if contacts are frequent. However, when a given group of states choose to formalize their relations and pursue a more cohesive type of political association that promotes a common set of goals and values, they begin to develop a form of structural interdependence. This alters the conditions under which international relations are conducted.

Structural interdependence is a situation in which individual states not only depend on *each other* for their security and prosperity but on the stability and progress of the political system or order itself. It is a deeper, more fundamental condition than one of *functional* interdependence. Functional interdependence is brought about through ongoing interaction and exchange. As the volume, depth, range, and reliability of this interaction increases, political leaders develop rules and institutions to formalize their relations and create a more predictable environment

⁴¹ Inis Claude, "Collective Legitimation as a Political Function of the United Nations," *International Organization*, vol. 20 (1966), p. 367.

through which they could compete and cooperate.⁴² Over time, this increases states' sensitivity and/or vulnerability to each other's actions. While this offers incentives for continued cooperation, individual states can choose to sever their relationships so long as they are willing to bear the opportunity costs.⁴³

On the other hand, under conditions of structural independence, few states can even conceive of severing their relationships since this would dramatically undermine the predictability and stability that allows them to act on the international stage. For example, on the most fundamental level a state's sovereignty is dependent on a stable system of territorial "property rights" through which states recognize each other's borders and agree on the conditions for coexistence.⁴⁴ Without the continued operation of a pluralistic system of juridically equal states, the stability of borders and the state's dominance over competing political actors (such as transnational or substate political authorities) would be threatened. The random and unpredictable actions of private transnational "terrorist" organizations suggest how international relations might be conducted in the absence of fundamental rules concerning sovereignty, diplomacy, and the conduct of warfare.

In fact, without a framework of stable institutions and rules, states would find it difficult even to conduct day-to-day transactions. The capacity for states to negotiate, sign agreements, and trust that their commitments will usually be observed is dependent upon the institutions of diplomacy and international law. Although these institutions occasionally break down and the rules are sometimes violated, they have remained durable for several centuries. Thus, even powerful states follow diplomatic procedures in cases where it is not in their immediate interest to do so. While these procedures can be viewed as providing a

⁴² See Barry Buzan, Charles Jones, and Richard Little, *The Logic of Anarchy: Neorealism to Structural Realism* (New York: Columbia University Press, 1993), p. 78. A similar point is made by Alan Watson, "Hedley Bull, *States Systems and International Societies*," *Review of International Studies*, vol. 13 (1987), p. 151.

⁴³ See, for example, Richard Cooper, *The Economics of Interdependence: Economic Policy in the Atlantic Community* (New York: McGraw-Hill, 1968) and Robert Keohane and Joseph Nye, *Power and Interdependence: World Politics in Transition* (Boston: Little, Brown and Co., 1977).

⁴⁴ On sovereignty as property rights, see Friedrich Kratochwil, "Of Systems, Boundaries, and Territoriality," *World Politics*, vol. 39 (1986) and John Ruggie, "Continuity and Transformation in the World Polity," in Robert O. Keohane, ed., *Neorealism and its Critics* (New York: Columbia University Press, 1986). Ruggie further develops this idea in his later work, "Territoriality and Beyond: Problematising Modernity in International Relations," *International Organization*, vol. 47, no. 1 (Winter 1993).

utility function (based on the expectation of reciprocity), it is also evident that officials within foreign affairs ministries have been socialized into believing that violating diplomatic norms is not simply a policy choice but a serious breach of binding rules. In this sense, states share a structural interdependence in the maintenance of diplomatic institutions. Thus, even in the face of overwhelming domestic pressures, governments have refused to prosecute foreign diplomats accused of manslaughter.⁴⁵

Even market-driven economic transactions rely on stable institutional structures that go beyond functional cooperation. The ability for states to trade openly with access to each other's markets not only depends upon actions taken by individual states (such as negotiating an agreement to reduce tariffs), but also on the continued progress of a free trade system. Such a system is built upon a relatively stable set of practices and beliefs that enable states to interpret behavior, make judgments, and identify cooperation and defection. This exists apart from the specific rules that states may negotiate in order to facilitate these goals. Political leaders who value free trade will thus develop a commitment toward the institutions and processes that facilitate international commerce, even though at times the rules may not favor their immediate interests. When these break down, as they did during the interwar period, it becomes difficult if not impossible to negotiate new trade rules, even if states believe that it is in their interests to do so.

This suggests a deeper level of interdependence than the liberal concept; it is based not only on a recognition of mutual vulnerability (or sensitivity) to each other's actions, but also on a shared sense that all states have a positive stake in building and maintaining long-term relationships. This condition of structural interdependence is the foundation upon which an international society of states is built. I argue that the existence of such a society provides the best foundation for explaining how and why states develop multilateral commitments to protect foreign populations.

The most extensive conceptualization of international society has been developed by scholars working within a theoretical perspective

⁴⁵ A classic example of this occurred in 1997, when a Georgian diplomat killed a seventeen-year-old girl in a drunk driving incident in Washington, DC. Although the Georgian government eventually waived the diplomat's immunity, the US government would neither arrest nor prosecute the driver until the American waiver request was officially granted. See Ruben Castaneda and Karl Vicks, "Diplomat Unlikely to Be Prosecuted in Crash, Officials Say," *Washington Post*, January 7, 1997, page B1.

informally dubbed the “English School” of international relations. The English School evolved from the British Committee on the Theory of International Politics in 1958, and was particularly indebted to the work of Martin Wight, Herbert Butterfield, and Adam Watson.⁴⁶ It became an important part of international relations theory in the United States with the publication of Hedley Bull’s *Anarchical Society* in 1977.

Theories of international society seek to account for the prevalence of order in international affairs despite the absence of a central authority or common world culture. They do so by stressing the social context of international relations. As such, English School theories focus on how political leaders create rules and institutions in pursuit of common goals for a diverse and pluralistic collectivity of states. At a minimum, these institutions provide a standard through which states can make collective judgments about the types of actors who may join the society of nations and how sovereignty may be created and transferred when states break up or amalgamate.⁴⁷

Within international society, formal and informal rules structure interaction by providing a foundation for making judgments of legitimate and illegitimate conduct; for advancing claims concerning mutually accepted rights and duties; and for seeking vindication and redress when rules are violated, rights infringed, and duties ignored.⁴⁸ States may sometimes violate the rules – and when they do there may be few coercive mechanisms to sanction them – however, all members are expected to observe them and in most cases they consider them to be binding.⁴⁹ Thus, for example, in 2003 the US government hired dozens of lawyers to advise military leaders which targets they might legally attack in a war with Iraq.⁵⁰ In practice, even powerful states accept constraints on their autonomy as a condition for participation in international institutions, and, more basically, as the cost of membership in an international

⁴⁶ For an excellent overview of the evolution of this school, see Timothy Dunne, *Inventing International Society: A History of the English School* (London: Macmillan, 1998).

⁴⁷ See Martin Wight, *Systems of States* (Leicester: Leicester University Press, 1977), p. 153.

⁴⁸ See Terry Nardin, *Law, Morality, and the Relations of States* (Princeton: Princeton University Press, 1983), pp. 34–35.

⁴⁹ In a study on state compliance with international law, for example, Louis Henkin concludes that “almost all nations observe almost all principles of international law and almost all of their obligations almost all of the time.” See *How Nations Behave: Law and Foreign Policy* (New York: Columbia University Press, 1979), p. 47. See also, Thomas Franck, *The Power of Legitimacy Among Nations* (New York: Oxford University Press, 1990).

⁵⁰ Steven Komarow, “US Attorneys Dispatched to Advise Military,” *USA Today*, March 11, 2003, p. 9A.

society of states. A state that regularly violates widely accepted norms is seen by other states not only as acting in a hostile manner, but as breaching the most fundamental rules that they all value.

In distinguishing between an international society and an international system, contemporary English School scholars develop theories of state obligation that are not based on natural law, moral imperative, or traditional bonds of common sentiment. Rather, since international societies are contractual and constructed rather than sentimental and traditional, they reflect the collective wills of their members.⁵¹ Thus, although some of the early English School theorists saw international society as emerging from a common (European) culture, the “constructivist” concept of society suggests that cultural unity is not a necessary condition.⁵² This enables us to derive principles of obligation from state practice without becoming entangled in the classic debate between realists and idealists over moral judgment and the harmony of interests.⁵³ Rather, research focuses on trying to determine which beliefs or principles represent a consensus of the members of an international society at a given time, what the substance of that consensus is and what its limits are. At the same time, it also enables us to determine which actors reside within this consensus, which remain outside, and why. In this sense, international society is not only an analytical concept, but also an empirical reality.⁵⁴

For Hedley Bull, the field’s best-known international society theorist, there is a fundamental set of goals that provide the foundation for any international society. These include the preservation of

⁵¹ This distinction between a *gemeinschaft* and a *gesellschaft* understanding of international society was suggested by Barry Buzan. See his, “From International System to International Society: Structural Realism and Regime Theory Meet the English School,” *International Organization*, vol. 47, no. 3 (Summer 1993), p. 333.

⁵² Martin Wight, in particular, held that a degree of cultural unity was necessary for the development of an international society. See his *Systems of States*, p. 33.

⁵³ See Carr, *The Twenty Years Crisis*, especially chs. 4 and 5 and Hans Morgenthau, *Politics Among Nations: The Struggle for Power and Peace* (New York: McGraw-Hill, 1993 [1948]), pp. 14–16.

⁵⁴ Alan James argues that the existence of any society can be demonstrated empirically through the presence of the following: a plurality of members, regular communication among them, and a set of binding rules that provide a foundation for interaction. See his “International Society,” *British Journal of International Studies*, vol. 4, no. 2 (1978), fn. 15. Robert Jackson holds that an international society can be identified through the existence of customary and positive international law and the community of diplomacy that has been sustained over the centuries. See his “International Community Beyond the Cold War,” in Gene Lyons and Michael Mastanduno, eds., *Beyond Westphalia: State Sovereignty and International Intervention* (Baltimore: The Johns Hopkins University Press, 1995), p. 62.

the nation-state system, the stability of territorial possession, mutual recognition of sovereignty, limitations on violence, and the sanctity of agreements.⁵⁵ Beyond this, collectivities of states have at various times developed secondary goals such as maintaining dynastic sovereignty in Europe, promoting a liberal economic order, providing for national self-determination, facilitating the peaceful settlement of disputes, and expanding the European state system into new areas of the world. This study is concerned with these “thicker” types of international society.

Under these conditions, states assume external responsibilities and/or obligations that derive, not from domestic politics, natural law, or universal moral principle, but rather from their membership in international society. These obligations are neither universal nor unchanging, but rather reflect the collectivity’s “constitutional structures.”⁵⁶ While political leaders may generally consider domestically generated preferences to be their primary guide in defining their interests, sometimes they must act also to preserve the fundamental principles of international society. To do otherwise would threaten the political foundations of international life that they value.

Like any political or social structure, the depth of an international society can vary from minimal to highly cohesive.⁵⁷ The greater the consensus over a larger range of values and goals, the more cohesive the association. As the level of consensus deepens, we should expect those states that are part of the regional or global society of states to develop stronger commitments toward the preservation and progress of

⁵⁵ See Hedley Bull, *Anarchical Society: A Study of Order in World Politics* (New York: Columbia University Press, 1977), pp. 16–19.

⁵⁶ Christian Reus defines constitutional structures as coherent ensembles of intersubjective beliefs and principles that define what constitutes a legitimate state, the nature of state rights and obligations, the conditions under which these rights can be legitimately exercised, and the situations in which international society is licenced to intervene to compromise these rights. See his, “The Constitutional Structure of International Society and the Nature of Fundamental Institutions,” *International Organization*, vol. 51, no. 4 (1997), p. 566.

⁵⁷ Andrew Hurrell posits three levels: minimalist, pluralist, and solidarist. The goal of a pluralist society of states is to maintain an “ethic of difference” while providing rudimentary rules of coexistence. While this requires some type of shared consciousness of international society among state officials, it is not as deep as a “solidarist” level in which far more extensive social goals and common values (such as the preservation of human rights) exist. See his “Society and Anarchy in International Relations,” in B. A. Roberson, *International Society and the Development of International Relations Theory* (London: Continuum, 2002), p. 32. This distinction between pluralist and solidarist forms of international society was first suggested by Hedley Bull in his earlier work, “The Grotian Conception of International Society,” in Herbert Butterfield and Martin Wight, eds., *Diplomatic Investigations* (London: Allen and Unwin, 1966).

international society. This is because under conditions of high structural interdependence states link their futures, at least in part, with those of the collectivity. Within this environment, states will construct institutions that further the primary and secondary goals of the collectivity. I consider any regime that is created primarily to promote, preserve and/or extend the principles of a regional or global political order or collectivity (as opposed to providing direct benefits to its members) to be an institution for the common good. Modern examples of these include the International Criminal Court, United Nations specialized agencies (such as the office of the UN High Commissioner on Refugees) and UN peacekeeping missions. In each case, the institution reflects a particular principle that is fundamental to the collectivity (human rights, humanitarian assistance and peaceful resolution of disputes, respectively).

International society and International Relations theory

In the previous section I suggested that international protection regimes are part of a class of institutions that are designed primarily to promote the common good for an international society of states. The existence of such a society provides the permissive condition from which institutions for the common good can develop. In an international society, political leaders create political institutions that promote the goals of the collectivity and designate the range of appropriate or legitimate ways to pursue them. The goals can be minimal – for example, as Bull suggests, simply maintaining the essential principles of the nation-state system – while the means may be broad – including, for example, the right to use force. They can change over time. Their depth and scope can vary across time and space. They may be confined to a single region of the world (for example, Western Europe) or they could include a wide variety of countries from many regions. In short, we should expect considerable variation in behavior within the environment of an international society.

This raises a problem in attempting to use an international society approach in order to explain a particular pattern of behavior. Like Waltz's international system, the concept of international society allows for a limited set of generalizations about state behavior. While English School theories suggest that states are guided by a fundamental set of norms in their relations with each other, they do not claim that all or even most behavior is determined by either the internalization of norms or