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MULTILATERALISM, SOVEREIGNTY AND NORMATIVE CHANGE IN WORLD POLITICS

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ABSTRACT

This paper examines the role of multilateralism in fostering and managing normative change in world politics, with specific regard to the fundamental norms of state sovereignty.[1] Post-war multilateralism helped to define, extend, embed and legitimize a set of sovereignty norms, including territorial integrity, equality of states and nonintervention. Today, multilateral institutions are under increasing pressure to move beyond some of these very same principles, especially nonintervention, as part of a transformative process in world politics. Without multilateralism, it is highly doubtful that the post-war international order would have been so tightly and universally built upon the norms of sovereignty. And without multilateralism, argues this paper, transition from this normative order now would be difficult and chaotic, as may be already happening as a result of the Bush administration's challenge to the current multilateral system.

I begin by briefly outlining the idea of norms and normative change. Then, I offer an overview of the role of multilateralism, both at the global and regional levels, in promoting the norms of sovereignty in the post-war period. Next, I outline the pressures for normative change being faced by multilateral institutions in recent years. Finally, the paper analyzes how multilateralism is promoting normative change, with particular reference to the norm of nonintervention.

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Professor Amitav Acharya has been Deputy Director and Head of Research at the Institute of Defence and Strategic Studies, Nanyang Technological University, Singapore since July 2001. Prior to this, he was a Fellow of the Harvard University Asia Center and concurrently a Fellow of Asia-Pacific Policy Program at the John F. Kennedy School of Government. He has been a Professor of Political Science at York University, Toronto, Lecturer in Political Science at the National University of Singapore and a Fellow of the Institute of Southeast Asian Studies, Singapore. His recent visiting appointments include: ASEM Chair in Regional Integration at the University of Malaya's Asia-Europe Institute (2003-4) and the inaugural Direk Jayanama Visiting Professor of Political Science at Thammasat University, Bangkok (2005). The author of five self-authored books, four edited volumes, and over a hundred chapters and articles, his recent publications include *Constructing a Security Community in Southeast Asia: ASEAN and the Problem of Regional Order* (Routledge, 2001; Chinese translation published by Shanghai People's Press, 2004), *Age of Fear: Power Versus Principle in the War on Terror* (Singapore: Marshall Cavendish, and New Delhi, Rupa, 2004), *Reassessing Security Cooperation in the Asia Pacific* (co-editor, MIT Press, 2005), and articles *International Organization* and *International Security*. He is a founding member and co-president of the Asian Political and International Studies Association (APISA), and a member of the editorial board of the journals *Pacific Review*, *Pacific Affairs*, *European Journal of International Relations* and *Global Governance*. His current research interests include Southeast Asian and Asia Pacific security, regionalism and multilateralism, normative change in world politics and international relations theory.

MULTILATERALISM, SOVEREIGNTY AND NORMATIVE CHANGE IN WORLD POLITICS[1]

What is Normative Change in World Politics?

Realists dismiss international institutions and regard them to be marginal to the game of power politics.[2] Liberal institutionalists mainly stress the functional role of institutions in lowering transaction costs, providing information, enhancing transparency, and monitoring and preventing cheating.[3] Constructivists argue that institutions can have a deeper impact; they do not simply regulate state behavior, but also help develop collective identities that can ameliorate the security dilemma.[4]

While acknowledging the importance of the functional role of institutions, it can be argued that the main contribution of multilateral institutions to world order has been in the normative domain.[5] In this role, institutions act as agents of norm construction and normative change with a view to regulate and transform state behavior. The normative role of institutions may include giving global legitimacy to local norms as well as local legitimacy to global norms. Post-war multilateral institutions universalized European legal ideas and practices about sovereignty, which were until then associated only with the "civilized" European nations and deemed inapplicable to the colonies. But even after the European state-system came to recognize the political independence and cultural dignity of non-European societies, European norms of regional interaction, developed by institutions such as the European Union (EU) or the Conference for Security and Cooperation in Europe (CSCE), continued to set a model for other regions trying to cope with the problems of sovereignty in their respective neighborhoods. At the same time, norms developed at the global level, chiefly through at the UN, diffused to the growing number of new states. In this process, multilateral institutions, thanks largely to the role of these new actors, redefined existing norms or created new norms to expand the meaning of sovereignty. More recently, multilateral institutions face the challenge of modifying or displacing older norms which have become delegitimized or dysfunctional in an increasingly complex and globalized world. In the past, international relations scholars were interested in the role of multilateralism in "embedding" norms into post-war economic and security structures (such as Ruggie's notion of "embedded liberalism"[6]). But multilateralism now needs to be looked at as an agent of norm displacement and transformation, involving some of the very same principles it once helped to institutionalize. Together, these normative functions of multilateral institutions have been critical to the maintenance and peaceful transformation of international order.

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The post-war international order is founded on the bedrock of sovereignty. Sovereignty, according to a widely used definition offered by Hinsley, is "the idea that there is a final and absolute political authority in the political community…and no final and absolute authority exists elsewhere."[7] The concept of sovereignty is cannot be understood without reference to its core norms; as Jackson argues, sovereignty is "essentially a legal order defined by rules".[8] Among the fundamental of constitutive norms of sovereignty, three have been especially important: territorial integrity, the sovereign equality of states, and nonintervention.[9]

Before we turn to an empirical examination of post-war multilateralism in promoting these norms, let me clarify what I mean by multilateralism, norms and normative change. The minimalist definition of multilateralism refers to interaction among three or more states. Ruggie extends this definition to the qualitative domain: "At its core, multilateralism refers to coordinating relations among three or more states in accordance with certain principles."[10] Ruggie's definition acknowledges the normative elements of multilateralism, which is important to this paper, but does not explore how the norms of multilateralism acquire specificity and meaning through socialization. My central argument here is that while multilateralism or multilateral institutions may well be founded on certain general principles, these norms may not be initially specified or contextualized. Hence, multilateral institutions provide the social setting within which such norms are interpreted and extended. The norms of multilateralism themselves vary, and undergo adaptation and transformation in different historical and regional contexts, something Ruggie's general definition of multilateralism does not demonstrate. Chayes and Chayes offer a generic definition of norms "to include a broad class of generalized prescriptive statements – principles, standards, rules, and so on – both procedural and substantive. The term includes statements that are reduced to writing or some other authoritative formulation as well as informal, tacit, or background norms."[11] This definition allows us to include both legal and institutionalized rules, or norms which have been incorporated into formal organizations, as well as informal and social norms which lack similar institutional support but may be important nonetheless. This is especially important in considering the development of normative orders in the Third World, especially Asia, Africa and the Middle East, where the level of institutionalization and legalization in formal regional organizations remains weak.

Second, procedural norms are as important as substantive ones, reflecting underlying political bargains which themselves are shaped by the fundamental beliefs of the actors. Third, this definition does not claim that norms are necessarily "moral". This point needs careful attention. To view norms in moral terms is a well-known tendency of constructivist norm scholars[12], who generally ignore bad norms, or the bad effects, unintended or not, of norms which have been once regarded as fundamentally good. But not all norms are intrinsically good or moral; in fact a good case can be made that the norms of sovereignty such as nonintervention or self-determination (or for that matter sovereign equality) have always been morally ambiguous. The extent to which they may be judged moral or immoral is a matter of perception, period and place.

Nonintervention is a "good" and necessary norm because it offers weak states protection against the capricious intervention by the big powers. But it is a "bad" norm in so far as it fails to protect people from the human rights abuses by their own governments. Similarly, the moral content and functional efficacy norms do not remain fixed or constant, but change over time and in response to new developments. What might have seemed good and necessary in a given historical period may seem bad and dysfunctional at a later period. Turning to nonintervention again, while liberal Third World leaders such as the Indian Prime Minister Nehru (no one's idea of a tin-pot dictator) saw nonintervention as a moral and legal protection of the weak in a world of the strong, the growing incidence of Third World human rights abuses and the emergence of a global civil society campaigning for human rights have led to this norm increasingly being seen in a negative light.

Moreover, norms which may seem bad globally may enjoy considerable legitimacy locally. Norms which may be discredited in one part of the world may retain a robust appeal in another. Such variations are hardly unusual, indeed, as I shall show shortly, the diffusion of the norms of sovereignty in the developing world after World War II was not marked by a single or uniform pattern, it did allow substantial diversity between the regional orders of Western Europe, Latin America, Asia, and Africa. While path dependency is itself an important indicator that norms matter, this applies equally to good and bad norms. When we say "norms matter", we should not simply be looking for evidence of good norms producing behavior that could not be attributed to power politics or instrumental rationality, and reproducing themselves in state or collective action through a reasonable period of time, but also of bad norms sticking around and shaping outcomes that materialist and rationalist perspectives would find difficult to explain.

Drawing upon my recent work on norm diffusion, I argue that empirical research on norms should account for the contested understandings, spatial variations and the changing moral content and functional efficacy of norms.[13] Moreover, normative change is not always, or mainly, produced and directed by global moral entrepreneurs peddling universal ideas, while local actors remain passive recipients. The latter can be, and are in most cases, active borrowers and constructors. They help to construct new norms of sovereignty to displace old and discredited ones or reconstruct global norms with a mix of existing ideas and practices.

In a contest between new global norms and preexisting local norms, localization rather than displacement, is more likely to occur. To say that is not to argue that local agents and localization are regressive; but only to say that normative change is not often the dramatic, revolutionary transformation.[14] Constructivist norm theorists have spent so much time studying the latter (the collapse of the Soviet Union, the end of Apartheid, the global ban on land mines, the protection of whales, etc., etc). But normative change can be, and mostly is, an "everyday form": an incremental, evolutionary dynamic which proceeds through local reconstructions of outside norms in accordance with some preexisting beliefs and practices, through which actors seek a new legitimacy without losing their fundamental sense of individual or group identity.

Multilateralism and the Making of the Post-War Sovereignty Regime

As Ruggie reminds us, "the earliest multilateral arrangements instituted in the modern era were designed to cope with the international consequences of the novel principle of state sovereignty."[15] Post-war multilateralism was instrumental in facilitating the global diffusion of what were essentially European norms of sovereignty. It did so through the adoption of these norms in the constitutional documents of multilateral organizations. For example, the UN Charter universalized the norms of equality of states, territorial integrity and nonintervention. Regional Organizations such as the OAS, Arab League, and later the OAU (now the African Union) and ASEAN, also made their contribution by recognizing and institutionalizing these norms. An important point here is not to overstate the norm-promoting role of the UN at the expense of regional organizations. The United Nations Conference on International Organization (UNCIO) which drafted the UN charter is 1945 out of the Dumbarton Oaks proposals, was attended by 50 countries, compared to 21 independent founding states for the OAS (established in 1948), 7 independent states for the Arab League (established in 1945), and 32 independent states for the OAU (established in 1963). Moreover, 29 states attended the Asia-Africa Conference in Bandung, where the nonintervention norm was forcefully articulated by Indian Prime Minister Nehru. And many of the non-European countries at the UNCIO were not fully sovereign yet, the Indian delegation was chosen by the British and 'played a subordinate role" to the British delegation to the UNCIO.[16] Hence the role of regional institutions in creating a conducive political climate for the diffusion of state sovereignty norms should not be overlooked.

Furthermore, the norm-setting role of universal and regional institutions could not have been taken for granted, because international law at that time did not require the adoption of any specific set of rules as a precondition for the founding of international organizations.[17] But multilateral institutions not only just adopted these norms.[18] In some cases, they also clarified their meaning, adapted them to the new circumstances, and extended their scope. The best example of this at the UNCIO was the doctrine of "sovereign equality" of states, which combines the concept of state sovereignty and the principle of equality of states. The idea of the equality of states had evolved as a natural law principle espoused by Grotius and most notably Wolff, but was challenged by the emergence of positive law, which recognized the inequality of states, most starkly due to the impact of the European Concert of Powers.

The Concert acknowledged the special responsibility and status of European great powers in managing international order. In view of this alternative way of how to organize international relations, the principle of equality of states could not have been assumed as the basis of the new international order which emerged from the ashes of World War II. At the UNCIO, however, the doctrine of equality of states was transmuted into the doctrine of sovereign equality of states, with the UN charter under Article 1 recognizing the "respect for the principle of equal rights" and Article 2 affirming that the organization "is based on the principle of the sovereign equality of all its Members". An important act of clarification at the

UNCIO was to define “sovereign equality” in terms of the following elements: (1) that states are juridically equal; (2) that each state enjoys the rights inherent in full sovereignty; (3) that the personality of the state is respected, as well as its territorial integrity and political independence; (4) that the state should, under international order, comply faithfully with its international duties and obligations.[19]

These principles were important for two reasons: they ensured that sovereignty was “an equal attribute of all the members of the United Nations with no distinction being drawn between the Great Powers and other members of the United Nations.”[20] Second, and no less important, it recognized that membership in international organizations such as the UN, and the acceptance of certain obligations which follow from such membership, does not violate sovereignty. “Rather it is by an exercise of this sovereignty that such obligations are assumed.”[21] This would be used for the participation of states in international organizations of all kinds, even in the case of such a supranational entity as the EU, in whose case, as Jackson points out, drawing upon Keohane’s “bargaining away” of sovereignty thesis, membership is nothing but an exercise in voluntary loss of sovereignty.[22]

The doctrine of sovereign equality of states of course did not mean the political equality of states. This inequality was striking with respect to the UN Charter’s adoption great power permanent membership in the Security Council and the right of veto, indicators of the “inequality of nations with respect to power and political influence.”[23] But the UN Charter at the end was essentially a compromise between those who sought the principle of absolute equality of states (this would have been unrealistic) and those who could settle only for the juridical equality of states (which would have been too modest and less empowering to the weaker nations).[24] Moreover, the doctrine of sovereignty equality did lead to the UN charter into accepting the unanimity principle “in the law and practice of multilateral treaties.”[25] This would have an enduring influence on decision-making in multilateral institutions at global and regional levels, where unanimity and consensus are seen as key protectors of the traditional norms of state sovereignty.

The UN also institutionalized the territorial integrity norm by disallowing the use of force to alter state boundaries. It also extended the norm. The 1960 UN Declaration on Granting Independence to Colonial Countries and Peoples, as well as the 1970 Declaration of Principles of International Law Concerning Friendly Relations and Cooperation Among

States, stipulated that the principle of self-determination applied to existing colonies, and not ethnic groups, and that the national territories were to be protected.[26]

The UNCIO strengthened the norm of nonintervention by giving an expansive meaning to the scope of domestic jurisdiction. It is important to bear in mind that non-intervention was not a "Westphalian" norm in the sense that it was enshrined in the Treaty of Westphalia in 1648. Rather, it emerged much later from the writings of European legal scholars. But many of these very scholars made important exceptions, both geopolitical and humanitarian, to the nonintervention principle. The most notable writer on nonintervention during this period, Vattel, justified intervention to preserve the balance of power. As Vincent writes, Vattel, conceived of Europe "as a political system whose members were independent, but were bound together by a common interest in" the maintenance of the balance of power. Hence "[n]ations were always justified in not allowing a powerful sovereign to increase his power by force of arms, and if the formidable prince betrayed his plans by preparations then other nations had the right to check him."[27] Pre-war inter-American multilateralism contributed much in making the nonintervention norm unexceptional. In 1933, it finally succeeded in getting the US to accept the principle and thereby dampen, or even "multilaterize" the Monroe Doctrine. But it was the UN which made the doctrine a universal principle, allowing no intervention even by the UN collectivity in matters of domestic jurisdiction. Although recent arguments in support of nonintervention have claimed exceptions to this original formulation by citing the obligations imposed by the Universal Declaration on Human Rights, the founding documents of the UN made it clear that all matters of domestic jurisdiction would lie outside of the UN's functions with the notable exception of its enforcement role. In fact, originally part of Chapter VIII, the nonintervention norm was moved (at the suggestion of the by the five sponsoring countries) to Chapter II and thus made "a governing principle for the whole Organization and its members."[28] This was intended to ensure that the broader scope of the organization's functions in economic, social and cultural areas would not be too intrusive for the member states. But the doctrine was further limited, thanks largely to an Australian-sponsored amendment to the UN charter, with respect to the determination of and action against threats to peace and acts of aggression.[29] Here, the authority of the organization was further restricted by specifically excluding binding decisions by the Security Council with respect to settlement of disputes that fell essentially within the domestic jurisdiction of states. This has proven to be one of the most contested aspects of the normative role of the UN, which would shape future debates about humanitarian intervention.

Finally, it was at the UN that self-determination was given worldwide legitimacy. Until 1958, customary international law “conferred no right upon dependent peoples or entities to statehood.” The self-determination norm had gathered powerful support at Asian and Afro-Asian conferences, including the Bandung Conference of 1955 of Asian and African nations, which declared that “colonialism in all its manifestations is an evil which should speedily be brought to an end.” This determination was to be “reiterated by these countries time and again at every opportune moment.”[30] Among these subsequent statements was the UN General Assembly’s Resolution on Self-Determination of 1958 and its Declaration of 1960 on Granting of Independence to Colonial Countries and Peoples. Moreover, UN declarations and resolutions in 1970 and 1975 defined the right of self-determination in some detail. The Third World coalition at the UN also played a part in broadening and the further extension of sovereignty to new areas, including development, such as natural resources or even information flows.[31] It sought to develop such auxiliary and subsidiary norms of sovereignty as a code of conduct for multinationals, the right to development, and above all self-determination for states rather than peoples.

At the regional level, the Latin American states played an important role in extending European norms of sovereignty. As noted, they were key proponents of nonintervention and the legal equality of states. Originally a response to their fear of a Spanish re-conquest and European meddling, their attention in promoting these norms shifted to the US as it added a Roosevelt Corollary to the Monroe Doctrine. They succeeded in trading their support for a collective defense framework under US leadership for Washington’s acceptance of the nonintervention principle. In this process, Latin America developed an extensive legal framework for peaceful settlement of disputes, arbitration which helped to embed the norms of equality and non-intervention in the inter-American context, both bilaterally and through regional institutions such as the Pan-American Union and the OAS.[32]

In contrast to Latin legalism, Asian countries through a series of interactions stretching from the Asian Relations Conference of 1947 to the Bandung Asia-Africa Conference in 1955 advanced the principle of non-intervention politically, especially in the emerging context of a bipolar international system. These interactions, while failing to create a formal regional organization, laid the foundations for the Non-Aligned Movement. Through these interactions, Asia also developed a norm against collective defense, which served to limit superpower intervention in Asia and (through the Non-Aligned Movement) the Third World. These early post-war interactions also shaped the design and purpose of future regional associations in Asia, especially the Association of Southeast Asian Nations, which to date remains a bastion of state sovereignty and which has formed the basis of newer regional organizations including the ASEAN Regional Forum, a grouping that brings together all the major powers of the contemporary international system. Asian regional organizations also gave expression to the process norms of sovereignty; the nonintervention principle was the basis of Asia's somewhat distinctive multilateralism based on organizational minimalism, preference for consensus over majority voting, and avoidance of legalistic approaches in favour of informal and process-based socialization.[33]

Africa may be given special credit for the strengthening the norm of territorial integrity. It is here that the traditional norm of territorial integrity of states became infused with the new idea of the non-violability of post-colonial frontiers. Although this latter principle had developed in Latin America since the 1820s, and was implied in the UN Charter more generally, it was in Africa that this norm had its most direct and crucial impact, given Africa's especially acute problem with artificial post-colonial state boundaries. The first regular OAU summit in 1964 declared postcolonial boundaries as a "tangible reality"[34] and approved a resolution calling on its members "to respect the borders existing on the achievement of national independence."[35] Under this formula, the OAU also disallowed self-determination by Africa's traditional minorities. The inviolability of postcolonial boundaries norm was to become the OAU's most significant contribution to regional order. The Conference on Security and Cooperation in Europe (CSCE), despite its greater concern with human rights and national self-determination, would also adopt the same norm in its Helsinki Final Act (a case of Europe learning from the Third World!). The Act stated that existing borders could only be changed "in accordance with international law, by peaceful means and by agreement." And both the EU and NATO have accepted new members only on the condition that they had reached border agreements with their neighbors, while the Commonwealth of Independent States (CIS) has accepted territorial integrity as a core principle.[36]

Three points may be highlighted in considering the role of multilateral institutions as promoters of international norms in the early post-war period. First, the main normative focus of multilateral institutions in the early post-war period was to promote and institutionalize the legal norms of sovereignty, rather than to advance humanitarian norms or principled ideas (despite the adoption of the Universal Declaration on Human Rights by the UN). By giving the norms of sovereignty a prominent place in their constitutional documents and subjecting most of their social, political and economic functions to these foundational principles, multilateral institutions helped to lay the foundations of a firmly sovereignty-bound global political-legal order. While revolutionary at its time of origin (the transformative element came from the circumstances and challenges of having a create a new international order after catastrophic European wars and to manage the absorption of a large number of formerly subjugated peoples into the states-system), it also became the basis of a persisting and self-preserving global status-quo.

Second, contrary to a popular perception, regional organizations and interactions were not mere followers to the UN in norm-setting. The evolution of the global sovereignty regime has involved both the universalization of regionally-developed principles as much as the localization of globally-negotiated norms. Third, and in a related way, the diffusion of European ideas in the international system has not simply been a matter of Third World states accepting them passively or on an "as is" basis. While Europe contributed a set of foundational legal ideas about sovereignty, the full-scale development of these ideas came about after decolonization, when the Third World countries sought to adapt and employ these norms in the conduct of their international relations. The newly independent countries in were keen to assume the identity of "sovereign" states. But they also needed to translate and operationalize ideas about self-determination, equality and non-intervention into specific principles of conduct in international affairs. In that process, they would contest the "true" meaning of equality and non-intervention, and the sort of relationships with other nations would uphold or undermine these. This role of Third World as agents of norm-setting should not be ignored in the literature on international relations, as it explains both the resistance of Third World countries to some of the fundamental currents of normative change in the world politics today. It also explains important variations in the creation of regional orders reflecting local patterns of diffusion sovereignty norms. This explains the contrast between Latin America's legalism versus Asia's "soft institutionalism" and Africa's distinctive emphasis on the non-violability of postcolonial frontiers. Compare also Asia's rejection of collective defense with Latin America and Arab Leagues acceptance of it. Last but not the least, as Western Europe turned solidarist in the 1950s, blaming war on sovereignty and challenging nonintervention in domestic jurisdiction, Asia and later African states played an instrumental role in preserving state sovereignty. Hence, the there is a need to rethink the conception of the global sovereignty regime as a linear or and uniform extension of the Westphalian model.

Why Multilateralism Promotes Normative Change?

Why are multilateral organizations promoting normative change now? Let me highlight five drivers of this changing role, although the list is not exhaustive. The first has to do with changing functional imperatives owing to, first and foremost, increased global and regional economic interdependence. The EU offers the most striking example of how functional cooperation leading to incremental institutional adjustments produce a redefinition and dilution of the traditional norms of sovereignty. At the global level, interdependence has created demand for more complex and authoritative institutions, such as the WTO's dispute arbitration and settlement mechanisms. In other regions of the world, economic interdependence and integration have similarly led to the creation of institutional mechanisms that would have been inconceivable in the early post-colonial period. Examples include the free trade areas in Mercousur and ASEAN, and the peer-review mechanisms adopted by the New Partnership for Africa's Development (NEPAD).

Second, the emergence of new transnational challenges (challenges that may originate from within the physical boundaries of states but with international consequences) have also led multilateral institutions to rethink their depart from a strict adherence to sovereignty norms. Responding to international financial crises, such as the Asian contagion of 1997, and more recently to Al-Qaeda terrorism, has required more intrusive multilateral monitoring and management. Thus ASEAN now has a macro-economic surveillance process and East Asia has begun to develop regional monetary cooperation, which had been avoided in the past manly due to sovereignty concerns. The UN has adopted new measures to curb terrorist financing, and Security Council's Counter-Terrorism Committee requires states to report on the dangers of terrorist activity, which, though not binding, does leave the door open to mandatory consultations and assistance for states who seem to lack the will or capacity to control terrorist activity within their borders.

Third, major systemic changes affecting the global distribution of power have opened up new roles for multilateral institutions and prompted them to adjust their normative predilections. In Europe, the CSCE/OSCE begun playing a more intrusive role in regional military and political affairs as the Cold War came to an end. Indeed, the CSCE contributed to the lessening of Cold War tensions by developing a set of very intrusive military confidence-building measures and by linking regional security cooperation with the domestic practices of states, including their human rights record. While these mechanisms were developed during the heydays of the Cold War, they became further institutionalized as the CSCE became a more formal organization at the end of the Cold War. Its confidence-building agenda inspired similar attempts in other parts of the world, including within the ASEAN Regional Forum, although not to the same degree of intrusiveness. The post-Cold War NATO, needing a new rationale for its continued existence, adapted to the OSCE's humanitarian missions, and became an instrument of sorts of humanitarian intervention. The United Nations, no longer constrained by the Cold War Security Council deadlock, and facing the need to rebuild states following the resolution of Cold War regional conflicts, could undertake elaborate state-building projects such as in Cambodia in the early 1990s. The OAU, facing ever greater marginalization due to post-Cold War superpower disinterest, had to develop local capacities and roles in internal conflicts which have torn central, west and now east Africa apart since the end of the Cold War period. ASEAN relaxed its norm of excluding great powers from regional affairs by creating the ARF, thereby subjecting itself more directly to pressures from the Western nations on issues such as human rights and democracy.

A fourth factor affecting the normative basis of multilateral institutions is domestic change. The growing trend towards democratization around the world, including east and central Europe and in many parts of the Third World, though neither complete nor irreversible, have created a more conducive international climate for both the UN and regional organizations to develop new roles in domestic governance. The global financial institutions such as the World Bank have expanded their role in developing democratic institutions without being subjected to the traditional barrage of criticism from Third World countries about interference in their domestic affairs. A striking regional example of multilateral institutions promoting democratic governance is the aforementioned Inter-American Democratic Charter (IADC) of the OAS, which carries injunctions not just against coups, but also against "backsliding" by existing democratic regimes. Democratizing states have shown themselves to be more amenable to relaxing the rules of sovereignty; in Southeast Asia, this was indicated in 1998 by an initiative by Thailand, backed by Philippines (both having gone through democratic transitions) for a "flexible engagement" process that would give regional partners a say over the domestic political and economic policies and practices of fellow ASEAN members. More recently, newly democratic Indonesia has championed the promotion of democracy as a regional norm.

Fifth, the expansion of the global civil society has brought about increased prospects for normative change in multilateral institutions. As Margaret Keck and Kathryn Sikkink's detailed study points out, civil society movements are among the leading norm entrepreneurs of the contemporary era, and their role has redefined the concept of multilateralism.[37] Multilateralism is no longer regarded, as it was at the onset of the post-war period, as a formal inter-governmental organizational framework with founding constitutional documents, legally specified decision-making procedures, and a large permanent bureaucracy. These do remain important of course, but such traditional multilateralism is being challenged by other types of actor-coalitions. Three types of actors are central to the emergence of this "new multilateralism". The first may be termed "counter-hegemonic coalitions" (to borrow Robert Cox's phrase[38]), or social movements whose main target is neo-liberal globalization and its principal national and inter-governmental agents. A second type of actors are "cosmopolitan moral movements" or groups that coalesce around some universal "principled" ideas, or ideas with a high moral and humanitarian content, such as human rights, prohibition on land mines, child soldiers and small arms. A third type of civil society grouping is knowledge-based "epistemic communities" (a formulation we owe to Peter Haas and Emanuel Adler[39]) or "Second Track" processes which bring together both political-bureaucratic policy actors and issue specialists to explore and advance ideas about change in specific issue areas. The Council for Security Cooperation in the Asia Pacific (CSCAP) would constitute a good example of this type of actor.

These civil society groups vary in terms of their respect for the norms of state sovereignty. Some may see the role of anti-hegemonic coalitions as ironic when they protest against global financial institutions which themselves have been accused of promoting the erosion of state sovereignty (by encouraging globalization). In general, however, these groups have essentially been challenging existing state sovereignty norms, albeit within a fundamentally different political framework than inter-governmental institutions like the IMF. Cosmopolitan moral movements and knowledge-based epistemic communities lack the visceral anti-governmentalism of the anti-hegemonic coalitions, and are willing, wherever possible, to work with like-minded governments in mobilizing resources and support that would translate their ideas into policy. Many multilateral institutions have started to accept, even encourage, the participation of such groups in a bid to shore up their legitimacy and satisfy the domestic constituencies of their members. (This is true not just of the EU, but also of Mercosur.) But whatever their disagreements about state sovereignty norms, all three types of civil society groups have pushed into to the agenda of inter-governmental multilateral institutions a whole host of new issues which had previously been ignored by them, including social, environmental, and human security issues. These, in turn, have led these institutions to develop new and expansive roles in the domestic and international affairs their members. They have also led to a substantial redefinition of the security role of multilateral institutions to include human security, a shift that challenges to the traditionally close association of multilateral institutions with state or national security.

A key aspect of the new multilateralism which is relevant here relates to leadership. Multilateralism today is characterized by new types of leadership, going well beyond the "structural leadership" of global hegemons or traditional great powers. It is commonplace to acknowledge the central role of the United States in the creation of post-war multilateral order. To quote Ruggie, "the pronounced shift toward multilateralism I economic and security affairs" in the post-war era was due to "the fact of an *American* hegemony…not merely American *hegemony.*"[40](emphasis original) But some of the most creative contributions of multilateralism today – such as the report of the International Commission on Humanitarian Intervention and State Sovereignty – are not American-led (nor is it produced by a formal governmental organization). Even in Latin America, the emergence of such transformative instruments of regional order as the Inter-American Democratic Charter was led by smaller nations, Peru in particular.[41] The US retains the ability to wreck multilateral initiatives it does not like, (although by no means all of them, as evident in the case of the ban on land mines and the creation of the International Criminal Court). To a large extent, the US role in multilateralism today may be defined in such negative terms - a far cry from the positive association between hegemony and the promotion of multilateralism in traditional hegemonic stability theory, or the more recent perspective of John Ikenberry which suggests the willingness of hegemonic powers to seek legitimacy through strategic restraint created within a multilateral setting.[42] But the US indifference and opposition to multilateralism has combined with, and might have opened greater space for, the "entrepreneurial" and "intellectual" leadership (to borrow Oran Young's classification[43]) of middle powers such as Canada and Norway, or coalitions of "weak powers" such as ASEAN, to promote important avenues of change in world politics today.

Dis-embedding Nonintervention

The transition of multilateralism to a post-Westphalian normative orientation remains far from complete. To begin with, principles such as sovereign equality of states and especially non-intervention continue to hold a powerful sway over Third World states.[44] From the perspective of major Third World nations such as India, Nigeria, Egypt and Brazil, the idea of the sovereign equality of states remains unfulfilled as long as the present system of permanent membership in the UN Security Council holds. Hence, a major normative concern of these states is to plug such loopholes in the post-war global sovereignty regime, rather than to subvert it.

More important, the normative contestation between nonintervention and humanitarian intervention continues, with no immediate victory in sight for the latter. Nonintervention today is the most contested norm of sovereignty. The territorial integrity norm faces no powerful challenge today, having survived post-Cold War challenges in Eastern Europe and Kosovo. And despite the ongoing demands for Security Council reform, states will pragmatically accept inequality in their foreign relations, as long as unanimity/consensus remains the principal decision-making rule in most other multilateral institutions, and the nonintervention norm constrains Western intervention in their domestic affairs.

To a much greater extent than the territorial integrity and sovereign equality norms, nonintervention is more directly implicated in some of the most horrendous tragedies of the post-Cold War period. It is also the most difficult norm to change, because in most cases it concerns regime survival. Hence, it is not surprising that the idea of humanitarian intervention, how to define, conduct and regulate it, is today a far more controversial topic than the issue of Security Council reform, or changes to decision-making rules, such as shifting from unanimity to majority voting, which impinges on the sovereign equality norm.[45]

In this context, the contribution of the International Commission on Humanitarian Intervention and State Sovereignty must be noted.[46] The report, "Responsibility to Protect" (R2P) goes some way towards developing an international consensus on the principles and modalities of humanitarian intervention.[47] It aims to make humanitarian intervention not only more legitimate, but also more efficient, by establishing clear rules, procedures and mechanisms for such intervention. Instead of arguing against the salience of state sovereignty as the basic organizing principle of international relations, the report, the product of a global epistemic community drawn from all continents and cultures finds the presumed tension between state sovereignty and humanitarian intervention to have been an exaggerated contest. Sovereignty 'does still matter', but sovereignty is not to be taken as a right, but as a responsibility, with the understanding that the most basic responsibility "for the protection of its people lies with the state itself." [48] When states are grievously incapable of living up to that responsibility, or are willingly causing severe harm to their own people, the responsibility to protect shifts to the international community. Hence the most significant contribution of the report is its redefinition of humanitarian intervention as a responsibility (first, of the state concerned, and failing that, of the international community), and not a right (of outsiders, however may they represent the international community at large).

No other policy document has gone further in specifying the criteria for humanitarian intervention. The Report sets down six conditions: right authority, just cause, right intention, last resort, proportional means and reasonable prospects. To satisfy the concerns of developing countries that humanitarian intervention may be used indiscriminately and capriciously by the strong against the weak, the report regards humanitarian intervention as "an exceptional and extraordinary" measure to be undertaken only in response to large scale loss of life and ethnic cleansing. Going by this criteria, democratic breakdowns, or conflicts that do not produce "serious and irreparable harm" to human beings, the traditional principle of non-intervention still holds.

The R2P has faced obstacles in becoming the standard bearer of a new norm of humanitarian intervention that would significantly reduce the salience of nonintervention. Developing countries remain wary of its recommendations, while on the other extreme, some advocates of humanitarian intervention argue unhappily that it keeps the threshold of intervention too high to cover situations like Burma.[49] The report was sidelined by the September 11 attacks on the US and the consequent preoccupation of the international community over the US-led global war on terror, which severely damaged multilateralism. The war on terror has reinstated strategic intervention ahead of the humanitarian variety, notwithstanding the US belatedly and self-serving justification offered by the Bush administration that its invasion of Iraq was a humanitarian action (as it became clearer that evidence could not be found to support the war's original rationale, the Iraqi possession of weapons of mass destruction). More important, American decision-making leading to the attack on Iraq violated almost every criteria of humanitarian intervention laid down by the R2P (which mirror the traditional principles of the "just war" doctrine), including: "right authority", "just cause", "right intention", "last resort", "proportional means" and "reasonable prospects". The report has retained value, however, as a point of reference, if not guidance, by governments and NGOs alike when discussing humanitarian intervention.

It has received a new boost in the 2004 Report of the Secretary-General's High-Level Panel on Threats, Challenges and Change". The Panelists "endorse the merging norm that there is a collective international responsibility to protect, exercisable by the Security Council authorizing military intervention as a last resort, in the event of genocide and other large-scale killing, ethnic cleansing or serious violations of international humanitarian law which sovereign Governments have proved powerless or unwilling to prevent." The criteria specified by the report to justify humanitarian intervention correspond closely to the criteria found in the R2P report.[50]

Given the early post-war regional variations in the construction of sovereignty, normative change at the global level remains contingent upon transitions at the local and regional level. In this context, important challenges to the nonintervention norm are emerging at the regional level. The case of the IADC has already been noted. The African Union began its life in May 2001 by assuming the authority (under Article 4) "to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity."[51] Although there would be an amendment to this provision that would shift the ground of intervention from humanitarian justifications "to the rationale of preserving ‘order", it is nonetheless a major breakthrough for a continent which has been a strong proponent of "negative sovereignty."[52] And as noted, the NEPAD initiative, strongly backed by South Africa, seeks to move beyond strict sovereignty concerns by adopting a "peer review mechanism" covering areas of peace and stability, democracy and political governance, and economic and corporate governance.[53] Asia continues to lag behind other regions of the world in departing from nonintervention. But here too, a regional financial surveillance mechanism in the making and an Indonesian proposal for an ASEAN Security Community calls for democracy as a regional norm and the non-recognition of any unconstitutional ouster of governments.

How will the different regions fare in leaving the strict or absolute conception nonintervention behind and developing in new multilateral mechanisms to cope with problems of stability and development? Normative change depends on a set of conditions: chief among them is "local initiative" or the availability of local/insider proponents (and not just global or outside norm entrepreneurs), the present legitimacy of the preexisting normative order, the existence of a prior receptive norm onto which the new norms can be "grafted", and the prospect that norm diffusion would lead to the legitimation and universalization of local identities.[54] Moreover, normative change is seldom a total displacement of the prior normative order, because local beliefs and practices do matter in shaping socialization processes around a new norm. In the case of the IADC, the insider leadership of Peru complimented the prior democratization of the continent creating a receptive environment for the development of the IADC. Even then, concessions had to be made to the proponents of state sovereignty such as Venezuela, and a high degree of state-centrism characterizes the charter, whose preventive measures such as collective vigilance and crisis missions could be undertaken "by invitation only" or through prior consent.

In Africa, NEPAD is seen less as a "local" initiative despite its championing by South Africa, than the new AU, because of strong feelings in the region, especially among civil society groups, that the real norm entrepreneurs of NEPAD are the global financial institutions pushing for the neoliberal norms of the "Washington Consensus". The prior norms of African development, including "self-reliance" retain legitimacy. Hence, the prospects for NEPAD succeeding are bleaker than those of the IADC. The AU's acceptance of humanitarian intervention is genuine, but not total, there remains an important local constituency for the nonintervention principle who continue to associate humanitarian intervention with a form of neocolonialism. And the organization is constrained by a lack of capacity, which the international community urgently needs to address.

Asia lacks many of the conditions for normative change in so far as nonintervention is concerned. Insider advocacy of the idea of humanitarian intervention is limited (only Thailand under the government of the Democrat Party was an open advocate or a modified version of this norm and then its Foreign Minister Surin Pitsuwan was seen as an "agent" of the West). Whether Indonesia fares better with its ideas about regional norm of democratic polities remains to be seen. China remains a particularly powerful critic of humanitarian intervention. India shows highly qualified support for it.[55] The democratization process in Asia is not widespread or robust enough (especially with China, Vietnam, Burma and North Korea remaining firmly authoritarian) to create a conducive climate for the diffusion of the humanitarian intervention norm through regional institutions. Sections of the ASEAN elite happen to believe that instead of legitimizing its identity and reputation as a regional actor, departing from the nonintervention norm will be ruinous for the organization.[56]

Conclusion

Without multilateralism, the norms of sovereignty would not have become so prominent a feature of the post-war international order. The developing countries, after securing independence from colonial powers would have found it difficult to adopt and extend the norms of sovereignty and defend them against challenges such as superpower encroachment. Without the bargaining and socializing environment offered by multilateral institutions, the developed countries would not have found it possible to secure the consent of the developing countries that would allow them to enjoy substantive and procedural exceptions to the principle of sovereign equality of states, which in their view was necessary for the sake of more efficient approaches to international peace and security.

Today, state sovereignty, especially its nonintervention norm, is facing challenges from a variety of sources, at intra-state, regional and global levels and in different issue areas.[57] Without multilateralism and multilateral institutions, the international community will find it difficult to manage normative change without substantial chaos. It is possible to argue that normative change could occur, and probably occur more dramatically and quickly, without multilateralism. Perhaps such change could be imposed by powerful states, or brought about by an American empire of the type that some neo-conservative intellectuals in the US advocate. But as the case of the Iraq war shows, such attempts, even with a humanitarian justification, could have profoundly destabilizing consequences, not only in terms of realizing the purpose of the intervention, but also in ensuring cooperation and understanding in the international community as a whole. Multilateralism and multilateral institutions may not be the quickest, most efficient or decisive producers of normative change, but they make fundamental transformations legitimate and peaceful.

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[1] The focus of this paper is on multilateral organizations, although I consider the role of social movements and other elements of "new multilateralism". I consider regional organizations such as the Organization of American States (OAS), African Union (AU) and Association of Southeast Asian Nations (ASEAN) to be multilateral, despite their limited geographic scope. The scope of this paper is limited to considerations of state sovereignty, rather than popular sovereignty.

[2] John Mearsheimer, "The False Promise of International Institutions," *International Security*, vol.19, no.3 (Winter 1994/95), pp.5-49.

[3] Robert Keohane and Lisa Martin, "The Promise of Institutionalist Theory," *International Security*, vol.20, no.1 (Summer 1995), pp. 39-51.

[4] Martha Finnemore, "International Organizations as Teachers of Norms," *International Organization,* Vol.47 (Autumn 1993), pp. 565-97.

[5] Andrew Hurrell, "Norms and Ethics in International Relations," in Walter Carlsnaes, Thomas Risse and Beth A Simmons, eds., *Handbook of International Relations* (London: Sage, 2003); Friedrich Kratochwil, "Norms Versus Numbers: Multilateralism and the Rationalist and Reflexivist Approaches to Institutions," in John Gerard Ruggie, ed. *Multilateralism Matters: The Theory and Praxis of an Institutional Form* (New York: Columbia University Press, 1993), pp. 443-474.

[6] John Gerard Ruggie, "International Regimes, Transactions and Change: Embedded Liberalism in the Postwar Economic Order," *International Organization*, Vol.36 (Spring 1982).

[7] F.H. Hinsley, *Sovereignty* (New York: Oxford University Press, 1966), p.26.

[8] Robert H. Jackson, *Quasi-States: Sovereignty, International Relations and the Third World* (Cambridge, Cambridge University Press, 1996), p.34. Jackson views sovereignty as a "normative premise of world politics," or "the basic norm, *grundnorm*, upon which a society of states ultimately rests." Robert Jackson, "Introduction: Sovereignty at the Millennium," in Jackson, ed., *Sovereignty at the Millennium* (Oxford: Blackwell, 1999), p.8, 10.

[9] Joseph Camilleri and Jim Falk speaks of three fundamental principles as the "accepted norms of international conduct": "a sovereign state could not, without its consent, allow other political entities 'to make or apply their own rules on its territory'; a sovereign state had the obligation 'not to intervene in the internal affairs of other states or compromise their territorial integrity;' and states enjoyed by virtue of their sovereignty equal rights and duties regardless of differences in their demographic, economic or strategic circumstances." Joe Camilleri and Jim Falk, *The End of Sovereignty?* (London: Edward Elgar, 1992), p.29. The wording of the first two of the principles is taken from K.J. Holsti, *International Politics; A Framework for Analysis* (Englewood Cliffs, Prentice Hall, 1967), p.84. For Brierly, the core norms of sovereignty are derived from the "rights of states" which include 'self-preservation, independence, equality, respect and intercourse'. J.L. Brierly, *The Law of Nations* 6th edition, (Oxford: Oxford University Press, 1963), p.49. Jackson identifies the constitutive rules of sovereignty to include: "legal equality of states, mutual recognition, jurisdiction, non-intervention, making and honouring of treaties, diplomacy conducted in accordance with accepted practices, and in the broadest sense a framework of international law including the law of war which attempts to confine even violent conficts between states within a rule-bounded playing field that protects noncombatants and other spectators." He distinguishes

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between such constitutive rules and the "instrumental rules" of sovereignty, including foreign policy, and "precepts, maxims, stratagems, and tactics which are derived from experience and contribute to winning play." Jackson, *Quasi-States,* pp.34-5.

[10] John Gerard Ruggie, "Multilateralism: The Anatomy of an Institution," in Ruggie, ed., *Multilateralism Matters: The Theory and Praxis of an Institutional Form* (New York: Columbia University Press, 1993), p.8.

[11] Abram Chayes and Antonia Handler Chayes, *The New Sovereignty: Compliance with International Regulatory Agreements* (Cambridge, MA: Harvard University Press, 1995), p.113.

[12] As Martha Finnemore and Kathryn Sikkink write: "contemporary empirical research on norms is aimed…at showing how the 'ought' becomes the 'is.' Empirical research documents again and again how people's ideas about what is good and what 'should be' in the world becomes translated into political reality." While they also recognize that "principled commitments and notions of what 'should be' have fueled xenophobic nationalism, fascisim, and ethnic cleansing," there has been very little research conducted on such effects of norms by constructivist norm scholars, who for the most part remain concerned with such moral transformations as end of Apartheid, abolition of slavery, foot-binding and female circumcision, protection of whales, ban on land mines and regulation of small arms, and above all promotion of human rights. Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization*, vol.52, no.4 (Autumn 1998), p.916.

[13] Amitav Acharya, "How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism", International Organization, vol. 58, no.2 (Spring 2004).

[14] Unless "revolution" implies long-term historical change, as in Daniel Philpott, *Revolutions in Sovereignty: How Ideas Shaped Modern International Relations* (Princeton: Princeton University Press, 2001).

[15] Ruggie, "Multilateralism: The Anatomy of an Institution," p.15.

[16] V.S. Mani, "An Indian Perspective on the Evolution of International Law," *Asian Yearbook of International Law, 2000*, vol.9 (Netherlands: Brill, 2004), p. 66.

[17] "Legally there is no obstacle to create different international organizations upon any conditions which the member States agree upon." Bengt Broms, *The Doctrine of Legal Equality of States As Applied in International Organizations,* Ph D. Disseration, University of Helsinki, 1959, p. 336.

[18] The focus of this chapter is not substantive norms, such as non-intervention or sovereign equality of states rather than procedural norms such as consensus or majority voting. But the two are closely linked. As will be noted, in Asia, the non-intervention principles formed the basis for a number of procedural norms such as avoidance of legalistic dispute settlement procedures, and organizational minimalism.

[19] *Documents of the United Nations Conference on International Organization, San Francisco 1945,* vol. VI (New York: United Nations Information Organizations, 1945), pp.332, 717-18. Hereafter referred to as *UNCIO Documents.*

[20] Broms, The Doctrine of Legal Equality of States, p. 165.

[21] Leland M. Goodrich and Edvard Hambro, *Charter of the United Nations: Commentary and Documents* (Boston, World Peace Foundation, 1949), p.99.

[22] Jackson, "Introduction" 31.

[23] Goodreach and Hambro, *Charter of the United Nations*, p. 100.

[24] Ibid., pp.164-65.

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[25] J.G Starke, *Starke's International Law*, 11th Edition, I.A. Shearer, ed., (London: Butterworths, 1994), p.100.

[26] Mark W. Zacher, "The Territorial Integrity Norm: International Boundaries and the Use of Force," *International Organization,* vol.55, no.2 (Spring 2001), p.221.

[27] John Vincent, *Nonintervention and International Order* (Princeton, N.J.: Princeton University Press, 1974), p.290.

[28] *UNCIO Documents,* Vol. VI, p.507; Goodreach and Hambro, *Charter of the United Nations*, p.111

[29] *UNCIO Documents,* Vol. VI, pp.334, 435-440.

[30] R. P. Anand, "Attitude of the Asian-African States Towards Certain Problems of International Law", in Frederick E. Snyder and Surakiart Sathirathai, eds. *Third World Attitudes Toward International Law* (Boston: Martinus Nijhoff Publishers, 1987),pp.12-13.

[31] Hedley Bull and Adam Watson, eds., *The Expansion of International Society* (Oxford: Clarendon Press, 1984), p.2.

[32] Ann Van Wynen Thomas and A.J. Thomas, Jr, *Non-Intervention: The Law and Its Import in the Americas* (Dallas: Southern Methodist University Press, 1956).

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[34] Robert H. Jackson, *Quasi-States: Sovereignty, International Relations and the Third World* (Canbridge: Cambridge University Press, 1990). P.153.

[35] Zacher, "The Territorial Integrity Norm," p. 221-2, 229-31.

[36] Ibid. p.222

[37] Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca: Cornell University Press, 1998); Sanjeev Khagram, Kathryn Sikkink and James V. Riker, *Restructuring World Politics: Transnational Social Movements, Networks, and Norms* (Minneapolis: University of Minnesota Press, 2002); Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink, eds. *The Power of Human Rights: International Norms and Domestic Change* (Cambridge: Cambridge University Press 1999); Jackie Smith, Charles Chatfield and Ron Pagnucco, *Transnational Social Movements and Global Politics: Solidarity Beyond the State* (Syracuse University Press 1997).

[38] Robert W. Cox, "Multilateralism and World Order," in Robert W. Cox with Timothy J. Sinclair, Approaches to World Order (Cambridge: Cambridge University Press, 1996).

[39] Peter M. Haas, "Introduction: Epistemic Communities and International Policy Coordination," *International Organization*, Vol.46, No.1 (1992), pp.1-37; Emanuel Adler, "The Emergence of Cooperation: National Epistemic Communities and the International Evolution of the Idea of Nuclear Arms Control." *International Organization* 46 (1992): 101-145.

[40] Ruggie, "Multilateralism: The Anatomy of an Institution," p.31.

[41] Andrew F. Cooper, Andrew F. "Negotiating the Inter-American Democratic Charter: A Case of 'New' Multilateralism?" Paper submitted to the Conference on the Inter-American Democratic Charter: Challenges and Opportunities, Vancouver, Canada, 12-13 November 2002.

[42] On hegemonic stability theory and the ability of multilateral institutions to endure after hegemony, see: Robert O. Keohane, After Hegemony: Cooperation and Discord in the

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World Political Economy, (Princeton: Princeton University Press, 1984). On the institution-binding perspective, see: John Ikenberry, *After Victory: Institutions, Strategic Restraint, and the Rebuilding of Order After Major War* (Princeton, Princeton University Press, 2001)

[43] Oran R. Young, "Political Leadership and Regime Formation: On the Development of Institutions in International Society," *International Organization*, Vol. 45, No. 3 (Summer 1991).

[44] On the historical reasons behind Third World's attachment to sovereignty see: Mohammed Ayoob, *The Third World Security Predicament: State Making, Regional Order and the International System* (Boulder, CO: Lynne Rienner, 1995).

[45] The European Union is making significant moves towards majority voting. Changes to decision-making procedures adopted by the Constitutional Treaty adopted by the European Council in Brussels in June 2004 ensures that more decisions are reached through majority decision-making, rather than unanimity. Instead of the majority of Member States representing 60% of the population, a qualified majority will require the support of *55% of the Member States representing 65% of the population*. This is accompanied by two further elements. First, in order to avoid the situation where, in an extreme case, only three (large) Member States would be able to block a Council decision due to an increase in the population threshold, a blocking minority needs to comprise at least four Member States. Moreover, a number of Council members representing at least three-quarters of a blocking minority, whether at the level of Member States or the level of population, can demand that a vote is postponed and that discussions continue for a reasonable time in order to reach a broader basis of consensus within the Council." The procedures of consensus and veto mechanisms, however, will continue to apply to the politically sensitive issues of foreign policy, security and defence.
http://europa.eu.int/constitution/download/oth250604_2_en.pdf;
http://europa.eu.int/constitution/download/oth180604_3_en.pdf

[46] *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (Ottawa: International Development Research Centre, December 2001). Hereafter, cited as the Report or *The Responsibility to Protect*.

[47] The discussion of R2P draws heavily from my article: "Redefining the Dilemmas of Humanitarian Intervention", *Australian Journal of International Affairs*, vol.56, no.3 (November 2002), pp.373-382.

[48] *The Responsibility to Protect*, p.7.

[49] Ramesh Thakur, "Developing Countries and the Intervention-Sovereignty Debate," in Richard M. Price and Mark W. Zacher, ed., *The United Nations and Global Security* (New York: Palgrave Macmillan, 2004), pp.193-208; Thakur, "Iraq and the Responsibility to Protect",

[50] *A More Secure World: Our Shared Responsibility*, Report of the Secretary-General's High-Level Panel on Threats, Challenges and Change (New York: United Nations, 2004), pp.66, 106.

[51] Quoted in Corrinne A.A. Packer and Donald Rukare, *"The African Union and its Constitutive Act",* The American Journal Of International Law, Vol. 96, No. 2 (April 2002), p. 372.

[52] Evarist Baimu and Kathryn Sturman, *"Amendment to the African Union's Right to Intervene"*, African Security Review, Vol. 12(2), 2003, p. 38. The Constitutive Act of the African Union adopted 9 July 2002 under Article 13 authorizes the Executive Council to take decisions in areas including "humanitarian action and disaster response and relief." It establishes a Peace and Security Council of the African Union whose objectives shall be to "promote and encourage democratic practices, good governance and the rule of law, protect

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human rights and fundamental freedoms, respect for the sanctity of human life and international humanitarian law, as part of efforts for preventing conflicts." The Council (under articles covering actions, mandate and powers) would "support and facilitate humanitarian action in situations of armed conflicts or major natural disasters." The Council's also provides for an "African Standby Force…to undertake humanitarian activities and…facilitate the activities of the humanitarian agencies in the mission areas." http://www.africa-union.org.

[53] International Peace Academy, "NEPAD: African Initiative, New Partnership?," *IPA Workshop Report* (New York: IPA, 2002); Dani W. Nabudere, "NEPAD: Historical Background and Its Prospects," *Paper prepared for presentation at the African Forum for Envisioning Africa*, 26-29 April 2002, Nairobi, Kenya; Adebayo Adedeji, "From the Lagos Plan of Action to the New Partnership for African Development and from the Final Act of Lagos to the Constitutive Act: Whither Africa?", Keynote address Prepared for the African Forum for Envisioning Africa, Nairobi, Kenya, 26-29 April 2002.

[54] These conditions are taken from and elaborated in Acharya, "How Ideas Spread".

[55] For review of the Asian attitudes towards humanitarian intervention, see: Koji Watanabe, ed. *Humanitarian Intervention: The Evolving Asian Debate* (Tokyo: Japan Centre for International Exchange, 2000). The chapters on China, India and ASEAN are written by Jia Qingguo, Jasjit Singh and Simon Tay and Rizal Sukma respectively. From this study, it would appear that China remains most opposed to humanitarian intervention, followed by India and ASEAN, while Korea and Japan are most positive about the concept.

[56] For further discussion, see Acharya, "How Ideas Spread"

[57] K.J. Holsti, *Taming the Sovereigns: Institutional Change in International Politics* (New York: Cambridge University Press, 2004).