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INTERNATIONAL SECURITY & FAILED STATES:
EMBRACING IDENTITY-CENTRIC STRATEGIES OF STATE-BUILDING

BY

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INTRODUCTION: INTERNATIONAL SECURITY AND STATE FAILURE

Since the early modern era, the sovereign state has been promoted as the normative unit of interstate relations by political philosophers and international jurists alike. Some scholars trace its origins to the 1648 Peace of Westphalia.¹ Others, such as Stephen Krasner, point out that state sovereignty was not formally articulated until the Swiss jurist Emmerich de Vattel's 1758 work *The Law of Nations or Principles of the Law of Nature Applies to the Conduct and Affairs of Nations and Sovereigns*.² In both cases, it is accepted that the system of sovereign states evolved out of early modern Europe and that by the end of that period (e.g. the age of enlightenment), it was the ubiquitous system of European interstate relations and, by extension, of global politics. The rise of state sovereignty was brought about by the shift of European powers away from decentralized feudalism and toward centralized monarchy. This shift had enormous repercussions for the European military landscape. No longer were wars small and frequent events between feudal lords, their knights and serf levies, but were instead less frequent inter-state confrontations, vastly greater in scale, between the large standing armies of bureaucratically-centralized monarchies.³ Equipping and maintaining these standing forces with weapons of increasing technological complexity and cost placed new burdens on the state thereby necessitating improvements in extractive capacity.

Charles Tilly theorized that democracy and liberal-capitalism both gained prominence during this period because these institutions allowed sovereigns to extract

¹ Robert Jackson, "Sovereignty in World Politics: A Glance at the Conceptual and Historical Landscape," *Political Studies* 47 (1999), 438-439.

² Steven D. Krasner, "Sharing Sovereignty: New Institutions for Collapsed and Failing States," *International Security* 29, no. 2, (Autumn, 2004), 87.n3.

³ V.G. Kiernan, "State and Nation in Western Europe," *Past and Present* 31 (July, 1965), 20-38.

more resources than were available under direct authoritarian rule.⁴ This provided for the centralization of standing armies under absolute monarchy as well as the rise of lavish court life.⁵ It also provided for the development of a bourgeois public sphere.⁶ The sovereign state system, then, fostered modern democracy and capitalism because they increased the state's war making capacity and relative security. This evolution towards large territorial powers possessing centralized administrations, republican institutions, and standing armies all under an absolute monarch was precisely how Machiavelli envisioned his new prince centuries before.⁷ With the centralization of each government into a formal system of delineated territories, populations, and the monopolization over the power of coercion, realism once again became the predominant philosophy of interstate relations. The buildup of a bewildering array of military force among sovereign states led to the rise of the security dilemma and corresponding strategies of deterrence and reassurance.⁸ Deterrence involves the maintenance of sufficient force to *deter* would be aggressors from pursuing conflict, whereas reassurance involves the use of incentives to reduce the likelihood of this conflict. Together the two make up a balance of power strategy.⁹

The security dilemma and the balance of power between sovereign states is a result of the anarchy built into the structure of state sovereignty at the international level.

⁴ Tilly, War Making and State Making as Organized Crime," in *Bringing the State Back In*, ed. Peter B. Evans, Dietrich Rueschemeyer, and Theda Skocpol (Cambridge: Cambridge University Press, 1985), 179-184.

⁵ James B. Collins, *The State in Early Modern France* (Cambridge: Cambridge University Press, 1995), 48.

⁶ Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, trans. Thomas Burger and Friedrich Lawrence (Cambridge, MA: MIT Press, 1962/1991)

⁷ Niccolò Machiavelli, *The Prince*, ed. Peter Bonadella, trans. Peter Bonadella (Oxford: Oxford University Press, 2005), 23-30.

⁸ Cf. Janice Gross Stein, "Reassurance in International Conflict Management," *Political Science Quarterly* 106, no. 3 (Autumn, 1991), 431-435.

⁹ Thomas J. Christensen, "The Contemporary Security Dilemma: Deferring a Taiwan Conflict," *The Washington Quarterly* 24, no. 4 (2002), 7-11.

Since each state is an independent actor, each is capable of initiating war at any moment. The balance of power described above is a way to deter, offset or prevent a conflict from occurring under this anarchy. During the twentieth and early twenty-first centuries, however, the greatest dangers facing sovereign states are no longer other states, but rather the security threats that fester in the structural anarchy between sovereign states and within power vacuums left by failed states. One of these relatively new threats is the growing capabilities of non-state actors. Because such actors lack the population and territoriality of states, measures of deterrence and reassurance are ineffective. Non-state actors can strike out at sovereign states from the shadows of international anarchy with relative impunity because they possess an advantage sovereign states do not: mobility. Examples of non-state actors include terrorist organizations, criminal cartels, rapacious corporations, or even individuals, each of whom have been empowered by technology and globalization with the capacity to cause devastating disruptions upon sovereign states while receiving disproportionately minor losses.

This extent of this security weakness was made explicit in the first decade of the twenty-first century with the attacks of 9/11 and thereafter by the terrorist organization *al Qaida*. Since such actors can move their financial assets and personnel whenever they are threatened, war must be declared on all the territories where these organizations can potentially hide. Since virtually all territory on earth has been officially divided between sovereign states (save Antarctica), the only territory open for non-state actors to train and finance themselves is in the power vacuum of failed states. These territories are ideal bases because the inability of their governmental institutions (if they exist) to expel them permits non-state actors to hide behind a states *de jure* sovereignty. Non-state actors are

not the only security threats which incubate in failed states as these territories also play host to narcotics trafficking, diseases, weapons proliferation, piracy, environmental degradation, and civil wars, the effects of which spill across borders and affect the economic and political stability of entire regions.¹⁰ It is for these reasons that failed states constitute the greatest threat to the future security of the sovereign states system. Whereas once their effects were believed to be a problem of the global periphery, it is evident today that they affect periphery and core states alike.¹¹

It can be safely asserted that *all* failed states are in a state of war. At best, there exists a *de facto* state of social anarchy with no legitimate state institutions whatsoever. At worst, these territories resemble a Hobbesian state of nature with all against all.¹² When Paul Collier writes that “ninety-five percent of global production of hard drugs is from conflict countries,” he was referring to failed (and weak) states. Not only are these states incapable of addressing these security concerns, entire portions of their territory may be effectively taken with the capital that non-state actors bring.¹³ Thus criminal cartels have the same advantages and reasons to prey upon failed states as terrorist organizations. Rapine corporations complete this triumvirate of dangerous non-state actors by supporting internal instability with bribes and direct payments to corrupt elites in exchange for market access. This is especially the case in failed states that possess crude oil reserves. The situation can be even more dangerous when the territory is divided up among warlords and rival tribes who extract what little resources are produced

¹⁰ Cf. Richard S. Williamson, “Nation-Building: The Dangers of Weak, Failing, and Failed States,” *The Whitehead Journal of Diplomacy and International Relations* (Winter/Spring 2007), 12-15; and Edward Newman, “Failed States and International Order: Constructing a Post-Westphalian World,” *Contemporary Security Policy* 30, no. 3 (December, 2009), 430.

¹¹ Newman, *Failed States and International Order: Constructing a Post-Westphalian World*, 435.

¹² Thomas Hobbes, *Leviathan*, ed. Richard Tuck (Cambridge: Cambridge University Press, 1996) 96.

¹³ Paul Collier, *The Bottom Billion, Why the Poorest Countries are Failing and What Can be Done About It* (Oxford: Oxford University Press, 2007), 31.

to fight one another. The warlords in most cases do not contribute to *endogenous* state-building because their formative work in building extractive capacity is inhibited by the easy finance acquired from non-state actors and appropriated aid.

For the first time in contemporary history, actors without a permanent territory, population, or secure means of extracting resources are capable of damaging the most powerful states in the world. That an organization of only a few thousand people can goad a country of millions into fighting a global war against it highlights the enormous advantages non-state actors possess. The financial resources of these organizations can easily corrupt local officials and enable the creation of “shadow states,” where non-state actors can build temporary bases to finance, recruit, train, and equip their forces shielded behind the *façade* of *de jure* sovereignty.¹⁴ If discovered or under threat of attack, they simply abandon their bases and begin anew in a more secure locale. In the meantime, however, these actors are fully capable of overpowering failed states whose institutions are effectively “hijacked” by them.¹⁵ Since the *raison d’être* of the sovereign state is the attainment and maintenance of security over its demarcated territory and population, it is becoming increasingly necessary for states to support or directly engage in state-building in an effort to minimize the security threats posed to their sovereignty by the anarchy of failed states. Should states choose not to address the cause of international security threats, they will have to cope with the effects. Either way, the cost to a state is immense.

The inability of a sovereign state to balance against failed states seriously threatens the future viability of the sovereign state paradigm. Theoretically, there are at

¹⁴ William Reno, “Shadow States and the Political Economy of Civil Wars,” in *Greed and Governance*, ed. M. Berdal & D.M. Malone (Boulder, CO: Lynne Rienner, 2000), 45-47.

¹⁵ Francis Fukuyama, *State-Building: Governance and World Order in the 21st Century* (Ithaca, NY: Cornell University Press, 2004), 93.

least three options open for states to reduce the threat of failed states. Firstly, a state can improve its defenses by attempting to control the effects of failed states. This can be done by clamping down on borders and keeping a strict eye on all information, personnel, and materials that move through them. However, this option may cause civil unrest, particularly in liberal-democratic societies as populations are never happy when new restrictions are placed on their freedom, even if these restrictions make them safer. Moreover, there is a direct correlation between commerce and the modern states ability to wage war.¹⁶ Since commerce is dependent on the rapid and flow of goods and information to remain globally competitive, we can deduce that a policy which negatively affects the movement of goods and/or information will adversely affect a state's capacity to make and sustain war.

To illustrate this point, consider the case of the US during the initial acts of the 'war on terror.' Shortly after 9/11, the administration of Bush II pushed the infamous USA Patriot Act of 2001 through Congress. The results of this bill, initially intended to counteract the money laundering activities of terrorists, precipitated virtually every subsequent economic disaster the US has experienced to date and reflects the growing anachronism of state sovereignty in the face of increasing commercial globalization and interdependence. At the time the USA Patriot Act was passed into law, \$1.5 trillion, or about 5% of the *entire* world's economy consisted of *illicit* money being laundered through the US.¹⁷ Because the US dollar is the largest reserve currency in the world, the US is the only state with the privilege of *seignorage*. This means that, whereas all other

¹⁶ Jan de Vries, *The Economy of Europe in an Age of Crisis, 1600-1750* (Cambridge: Cambridge University Press, 1976), 242.

¹⁷ Loretta Napoleoni. *Terrorism and the Economy: How the War on Terrorism is Bankrupting the World* (New York, NY: Seven Stories Press, 2010), 73.

states are limited in the amount of money they can borrow to the amount of their own currency in *domestic* circulation, the US can borrow against the total amount of its currency in *global* circulation. Therefore, the more US currency is hoarded and spent abroad, the more the US can borrow to cover its operations.

As Napoleoni describes; “in 2000, one-third of newly printed money, amounting to about \$500 billion, was smuggled out to feed the demand for dollars in the illegal, terror, and criminal economies.”¹⁸ Ironically, the terrorist’s responsible for 9/11 were dependent on American currency to finance these attacks and the construction of the World Trade Towers themselves was possible because the US economy was supported by the international usage of its currency, in part by the same terrorist organization who orchestrated the attack. Therefore, it is of little surprise that even before the Patriot act affected Terrorist money laundering activities, the global turnover of the US dollar began to shrink and with it the amount of debt the US could take as states began to seek safer currency reserves in the Euro.¹⁹ The effects were swift and lasting because the US is still limited in the amount of debt it can take on. Some may not consider this a bad thing considering the enormous amount of debt the US already owes, but the change could not have come at a worse time as the US was ratcheting up for its deployments in Afghanistan and Iraq. The US government needed the easy credit to finance its ‘war on terror.’ To illustrate the cost of this global effort, consider that as of 2010 the total US expenditure on defense was “double the combined total of the fifteen nations with the highest military expenditure in the world, including the UK.”²⁰

¹⁸ Napoleoni. *Terrorism and the Economy: How the War on Terrorism is Bankrupting the World*, 74.

¹⁹ *ibid*, 76.

²⁰ *ibid*, 80.

Few Americans will argue, particularly in the wake of the Great Recession, that such expenditure on war and social programs is desirable. Interestingly, the group responsible for the initial attacks that sparked the ‘war on terror’ and the USA Patriot Act of 2001 is still in existence and its successors appear to be making a comeback in Afghanistan, though Bin Laden and most of his lieutenants have been killed or captured. Carefully considering this example leads us to effectively rule out the strategy of trying to control the effects of state-failure. Responses tend to have unforeseen consequences and the costs are comparable with the proactive strategy of state-building. There are two ways of trying to address the causes of insecurity. The first looks to eliminating the international state of anarchy structurally integrated into the sovereign states system. This, however, would mean the creation of a world state capable of overcoming the sovereignty of each member state. While certain polities seem to be taking a step in this direction with supranational political structures like the EU, the achievement of global political integration is still a long ways off. None of the world’s most powerful states, least of all the US, would be willing to lightly cede sovereignty to a higher political authority. Therefore, this attempt to control the causes must be discarded as well. The only option left is to eliminate the causes of security threats emerging from failed-states is to eliminate failed-states themselves.²¹ This means a deliberate and concerted effort at state-building with the primary objective of increasing international security.

However, a sovereign state deploying traditional force to eliminate the sources of insecurity within a failed state is immediately faced with difficulties. After having invaded a failed state and eliminated the immediate security threats, the invading state is left with a patient on life support. The invading state must try to create new institutions,

²¹ Christensen, *The Contemporary Security Dilemma: Deferring a Taiwan Conflict*, 7-11.

or rehabilitate the ones that the state had. Choosing not to operate on the patient will cause no reduction in security threats and may even lead to their increase as other actors move to take advantage of the sovereignty vacuum. In most cases this situation will be exacerbated because the invading country will have destroyed or disabled what little the country had in the way of infrastructure in its effort to rid that state of security threats. Therefore, it is a necessary and realistic consequence of the distribution of power within the international system that international actors engage in state-building operations in failed states, particularly after armed intervention therein. The US Army has adopted this strategy through trial and error in Iraq. Dubbed “Clear-Hold-Build,” this strategy prioritizes the elimination of hostile groups from “high-priority area[s]” (clearing), defending them against the return of hostile forces (holding), and then engaging in traditional state-building operations in conjunction with other agencies (building).²²

It is essential that international actors acknowledge the threats that have arisen to challenge the sovereign states system. By failing to respond to these threats, state sovereignty, the current dominant geo-political paradigm, will increasingly be placed in jeopardy and with it global stability and order. By eliminating the sovereignty vacuums concomitant with state-failure, the primary source of today’s most pressing security threats can be eliminated. Additionally, state-builders must come to recognize the role identity plays in successful state formation. Failing to incorporate divergent group identities into a restructured state will result in illegitimate institutions and recidivism into state failure. It is therefore necessary that state-builders play an active role in polling the populace for what they normatively desire rather than taking the paternalistic route of

²² United States, *The U.S. Army/Marine Corps Counterinsurgency Field Manual no. 3-24: Marine Corps Warfighting Publication no. 3-33.5* (Chicago: University of Chicago Press, 2007), 5.18-25.

deciding what is best for them. In short, this paper argues *that international security in the twenty-first century will depend on the elimination of failed-states from the sovereign state system, that the only way to accomplish this is by exogenous state-building which aims at allying the group identities of the population with unique institutions that they will view as their own, and that the best means for accomplishing this will be either through federacy or partition.*

It is worth repeating at this juncture that the security threats which state-building aims at eliminating are not limited to non-state actors. These actors are particularly dangerous and represent a new threat to state sovereignty, but they are also co-morbid with the aforementioned threats that incubate in a vacuum of sovereignty (e.g. diseases, drug trafficking, etc.).²³ It must be acknowledged that state-building operations have had a mixed history of success. On the one hand, international actors who engage in state-building have tended to go into these efforts expecting quick outcomes and committing insufficient resources.²⁴ Future state-building operations will have to consider the probability that these operations will likely take several decades to complete. As such, the burden should be on the international community as a whole and not on any one individual state. On the other hand, international actors have tended to look at state-building primarily as a humanitarian project. Instead they must come to see state-building as an international security imperative that has the added benefit of meeting humanitarian and human rights objectives. An international actor cannot reduce the security threat posed by state failure without eliminating the humanitarian causes at its root;

²³ Williamson, *Nation-Building: The Dangers of Weak, Failing, and Failed States*, 12-15; and Newman, *Failed States and International Order: Constructing a Post-Westphalian World*, 430.

²⁴ James Dobbins, et al, *The Beginner's Guide to Nation-Building* (Santa Monica, CA: RAND Corporation, 2007), 4-6.

humanitarianism and security are intertwined. Since the majority of threats to advanced industrial societies come from failed-states, building up their institutional capacity is as important for security as balancing conventional and nuclear powers.²⁵

Instead of focusing on the building of state institutions, intervening states must examine the underlying distribution of the populations' group identities first before creating institutions around them. Even though state-building has become much more important in the twenty-first century, there is nothing new *per se* about it. What has changed is our understanding of state-building as a process. Every 'developed' state has gone through state-building in the natural, or *endogenous*, sense and continues to do so by continuously reinventing institutions to keep up with changing times.²⁶ But endogenous development can be arrested by rapacious and oppressive regimes, ongoing civil war, genocide, or some similar atrocity befalling the people and undermining the institutional capacity and legitimacy of the state.²⁷ Without these two aspects of statehood – institutional capacity and legitimacy – there can be no state, just a weak or failed shell of one. Moreover, history reveals endogenous state-building to be a particularly bloody and repressive affair as dominant groups oppress and forcibly incorporate others.

Therefore, what is meant by state-building in the contemporary sense is *exogenous state-building*.²⁸ The theoretical basis for which is that it is possible for an external actor, given sufficient time, willpower, and resources to transform a failed-state's institutions into strong ones. This can only be accomplished by incorporating

²⁵ Newman, *Failed States and International Order: Constructing a Post-Westphalian World*, 435.

²⁶ OECD, "Concepts and Dilemmas of State-Building in Situations of Fragility: From Stability to Resilience," *OECD Journal of Development* 9, no. 3 (2008), 12.

²⁷ Shahar Hamieri, "Failed States or Failed Paradigm? State Capacity and the Limits of Institutionalism," *Journal of International Relations and Development* 10 (2007), 122-137.

²⁸ Toby Dodge, "Iraq: The Contradictions of Exogenous State-Building in Historical Perspective," *Third World Quarterly* 27, no. 1 (2006), 189-191.

group identities into the process and thereby granting authority to these institutions. Because most failed states in the world are former colonies whose populations received independence and territorial sovereignty together regardless of sizeable ethnic, religious, lingual and cultural minorities within the population, paying heed to identity is the best means of resolving long standing disputes.²⁹ In the next chapter we will examine the evolution of the state and the sovereign system, as it evolved in the European context, to incorporate divergent identity groups within a population into a common institutional framework.

²⁹ OECD, *Concepts and Dilemmas of State-Building in Situations of Fragility: From Stability to Resilience*, 67.

CHAPTER ONE: IDENTITY CENTRIC STRATEGIES FOR STATE-BUILDING

The father of the modern republic, Machiavelli, pointed out the ease with which a population accustomed to princely rule can accept another prince. Territories that share ethno-linguistic, sectarian, and cultural identities are easy to incorporate because they are accustomed to identical institutions. However, territories of diverse languages and ethnicities are much more difficult to incorporate. The latter, unfortunately, is the case with failed-states, making state-building all the more difficult to perform exogenously. Machiavelli gave the new prince the following advice regarding the incorporation of governments accustomed to self-rule into his principality: –

“Whoever becomes patron of a city accustomed to living free and does not destroy it, should expect to be destroyed by it; for it always has as a refuge in rebellion the name of liberty and its own ancient orders which are never forgotten either through length of time or because of benefits received. Whatever one does or provides for, unless the inhabitants are broken up and dispersed, they will not forget the name of those orders, and will immediately recur to them upon any accident... [I]n republics there is greater life, greater hatred, more desire for revenge; the memory of their ancient liberty does not and cannot let them rest, so that the most secure path is to eliminate them or to live in them.”³⁰

In a world where liberal-democratic governments dominate, where mass transportation and media have spread material goods and ideas far into the global periphery, it is safe to

³⁰ Niccolo Machiavelli, *The Prince*, 2nd, trans. Harvey C. Mansfield (Chicago, IL: University of Chicago Press, 1986/1998), 20-21.

assume that most of the world has at least seen republican institutions and that many *want* them. This is a good argument that state-building should seek to establish democratic regimes and that coercion of the population is not a useful means of getting them to embrace it. It is therefore necessary that the choices and allocation of authority to institutions not be decided by the intervening state, but by the population that will live under it.

At the heart of the debate over state formation is to what extent states can or should be recreated in a way that differs fundamentally from their predecessors. Nowhere is this subject more contentious than in the arena of territoriality and self-determination. Taking divergent group identities into account and allowing them to choose their own fate within a unitary, federal, partially autonomous (federacy), or independent (partitioned) territory incites heated debate and ardent defenses of the sacrosanct nature of territorial borders, particularly when they have been declared ‘national.’ In *Bosnia After Dayton: Nationalist Partition and International Intervention*, Sumantra Bose argues that the primary cause of intense ethnic and sectarian violence is not the security dilemma that exists between rival identities, but from the possible threat of immanent partition.³¹ Although Bose raises many very good points about the insufficiency of the security dilemma explanation as cause inter-ethnic and sectarian violence, it fails to adequately describe why partition is not better in the long term to solve that violence. I argue that the violence that was sparked by the mere possibility of partition is an example of why it is *necessary*. If a people do not have the right to self-determination, and they are forced by the dominant group of the state to remain in a specific kind of association against their

³¹ Sumantra Bose, *Bosnia After Dayton: Nationalist Partition and International Intervention* (New York, NY: Oxford University Press, 2002), 179-180.

will, how is the resulting state any different from a multi-ethnic empire? He uses the cases of the partition of Bengal and the breakup of the former Yugoslav republic, but remains silent on the genocide in Rwanda, where no threat of partition existed to precipitate ethnic violence.³²

It is the violence that erupts between these groups that necessitates international intervention and state-building. However, the idea that territories should be held together by international fiat or the will of the majority smacks of imperialism. That the Republika Srpska should be forced by the international community and the majority Bosnian Federation of Bosnia and Herzegovina to remain part of the Republic of Bosnia against the wishes of the majority of its population seems counter-productive.³³ The idea that a consociational framework will yield some fruit of peace and stability down the road is an act of faith, not reason. It seems particularly absurd in cases like Bosnia where both sides engaged in genocide and ethnic cleansing. Bose claims that “consociation may be the most viable institutional option [for Bosnia], short of formal partition, redrawing of boundaries and exchange of populations.”³⁴ Bose elsewhere speaks ardently against the idea of partition, so in effect; his is an argument for consociationalism.³⁵ It is the height of hypocrisy for countries like the US and France, the progenitors of the revolutionary age, to tell another people that they have no right to secede from their sovereign state.

What Bose fails to mention in advocating consociationalism as an option of last resort is the option of federacy or partial autonomy. The main difference between partial-

³² Sumantra Bose, *Bosnia After Dayton: Nationalist Partition and International Intervention*, 2002.

³³ International Crisis Group, “Bosnia: What Does Republika Srpska Want?” *Crisis Group Europe Report* N.214 (6 October, 2011), 1-5.

³³ Sumantra Bose, *Bosnia After Dayton: Nationalist Partition and International Intervention*, 2002.

³³ International Crisis Group, “Bosnia: What Does Republika Srpska Want?” 1-5.

³⁴ Sumantra Bose, *Bosnia After Dayton: Nationalist Partition and International Intervention*, 246-252.

³⁵ *ibid*, 168-177.

autonomy and complete partition is that in a federacy relationship the core states territory remains intact, but a certain region or regions enjoy significant levels of autonomy in relation to the core. If it can be pulled off, federacy is always a better option than partition, but it still has its detractors. John McGarry points out two of the most prominent arguments against federacy that have surfaced to date. The first was articulated by the late Canadian Prime Minister Pierre Trudeau, and claimed that federacy might increase the likelihood of secession because these partially independent territories have a “special” responsibility for their own people and the central government less so. The second is that it has features that are inherently undemocratic. A partially independent territory has more say in the central government of democratic states than that central government has in the affairs of the federacy.³⁶

Whereas there is a legitimate problem with the undemocratic features of federacy, I would argue that this is a necessary feature of this species of political institution and that overall the choice is better for both the core and the federacy than the alternatives which would either be brutal suppression or secession. Furthermore, it is highly unlikely that federacies will use their position as leverage to force core state into political positions they do not want to be in. This is because federacies are by nature the weaker of the two parties as their status of partial autonomy is dependent upon the willingness of the core government to honor its commitment. In terms of the possibility of partial autonomy to encourage secession, McGarry points out that the opposite is in fact the case. Using the case of Quebec during the 1995 referendum, McGarry argues persuasively that secession and de facto partition would have been the case had Canada not agreed to

³⁶ John McGarry, “Asymmetries in Federations, Federacies, and Unitary States,” *Ethnopolitics* 6, no. 1 (March, 2007), 112-113.

asymmetrical accommodation.³⁷ Federacies do actually have a binding power for keeping territories together, despite divergent identities.

I will argue later, however, that this only goes so far and when these identity groups actively seek to exterminate one another, the advantages of federacy begin to decrease and partition becomes the better option. The inherent advantages of partition and federalism in the context of failed states relates, as we will see shortly, to their ability to give voice to divergent group identities. When peoples are allowed to choose with whom they will associate freely, then the resulting political institutions will be stable and have legitimate authority instead of relying on coercion. I do not rule out the more conventional arrangements of unitary or federal states, but these cases, which require that a population can peaceably inhabit the same political and territorial spaces, is not practical for many failed states in which various identities have a history of brutal conflict. Failed-states, by default, require decentralization to survive because the violence required to bring centralized order is no longer morally permissible. For the rest of this chapter, therefore, we will delve deeper into the structural relationship between state-building, institutional legitimacy, and identity.

1.1 – The Basis of Legitimate Institutional Capacity

First and foremost, every state will eventually fail if it lacks the authority to legitimate its institutional capacity. The source of this institutional legitimacy comes from the authority that the population imparts upon its institutions. This requires popular identification of the population with the institutions they will live under and a sense of

³⁷ John McGarry, *Asymmetries in Federations, Federacies, and Unitary States*, 112.

ownership in them. In other words, state institutions cannot exist if they merely rule over a population; instead the population has to see them as distinctly *theirs*. I assert here, in no uncertain terms, that the only source of legitimate authority in all political systems is through the *demos*. Without co-opting the *demos*, a state cannot attain legitimacy and its claims to legitimacy will be based solely on coercion, similar to what Weber and Tilly describe above. The nature of these institutions whether they are democratic or authoritarian, elected or unelected, does not matter when it comes to the need for the population to recognize them as legitimate. A population will not support a regime in its hour of weakness, which comes to all regimes with time, if they do not see it as normative and worth keeping.

In other words, it takes authority to make institutions legitimate and this always comes from the *demos*, in particular, the willingness of the population to identify with state institutions as normative and to have *faith* in their allocation of authority to them.³⁸ Authority is always legitimate because it is recognized as such through faith; a lack of faith means that the state has lost its authority *de facto*. A failed state can maintain a semblance of authority *de jure* by the recognition of its sovereign peers, but it cannot exist in fact without the populace to support it. Do not forget that most of Europe opposed the revolution in France and wanted a scion of the house of Bourbon back on the throne. However, were this achieved during the revolution, the would-be monarch would have been immediately deposed (and likely beheaded), because the population did not see the monarch as a legitimate authority anymore. This does not deny, however, that over

³⁸ Cf. Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. George Schwab (Chicago: University of Chicago Press, 2005), 36-52; and Max Weber, *Politics as Vocation*, in *Max Weber's Complete Writings on Academic and Political Vocations*, ed. John Dreijmanis, trans. Gordon C. Wells (New York, NY: Algora Publishing, 2007), 194-195.

time a claim to authority arising from coercion cannot become legitimate. Indeed it can, but the process is long and paved with bloodshed and repression. Ultimately, it will require the *demos* to identify with and accept the institutions propped up by force.

It follows from this understanding of authority that failed states are such not because they lack the monopoly on coercion, but because the population does not identify with their institutions. Because there is so little popular identification, institutions are not maintained when the presence of the state-coercive apparatus is absent. This is a case of government by day, anarchy by night so to speak. But this power to coerce, again, in such circumstances is merely an *illegitimate* manifestation of power until it inculcates or earns the identification of the people.³⁹ The lack of legitimate authority in failed states leaves only the militant groups as the *de facto* claimants on authority. Traditional state-building has focused on supplying aid and building institutions from the top-down, starting with the government. If what I have just argued about legitimate authority arising from the people is true, then the current strategy is a proverbial case of placing the cart before the horse. It is difficult for populations to identify with and feel a sense of ownership in institutions that were placed over them by outsiders. Furthermore, it is impossible that institutions introduced exogenously will be self-standing within a few short years unless they are not very different from the ones that preceded them.

In failed states, exogenously created institutions do not have a legitimate basis of authority and need long periods of time for the population to entrust them with it. It is not any easier to implant institutions and order the people to cherish and support them than it is for a shepherd to pick a sheep as the leader and have the rest follow suit. Nature alone

³⁹ Jean-Jacques Rousseau, *The Social Contract*, trans. Maurice Cranston (London: Penguin Books, 1968), 52-53.

determines these things because there are an infinite number of variables that cannot be controlled for. It is therefore much more efficient to exogenously *encourage* endogenous development. The success of such operations increases when the population is similar to that of the intervening state in language, culture, and idea of the good. This however, is no guarantee that the population will identify with these institutions, people are ever capricious and it is difficult to predict in what way they are inclined to move. By providing exogenous *encouragement* we are adding a sheep-dog to the mix.

In the contemporary international climate, setting up the conditions whereby the population can determine things for themselves without fear of reprisal is essential. Since the international community has claimed that a right of self-determination exists for all peoples, every population group should have some say in what state they will live under. A state is less a rational-legal entity with a monopoly over legitimate violence than it is a social institution imbued with a mystical authority that people accept through faith. Weber articulated three sources of legitimate authority: charisma, tradition, and rational-legalism.⁴⁰ It was his belief that these institutions inspired in the population of a state *Legitimitätsglaube* (faith/belief).⁴¹ Some quasi-religious form of faith or belief is the best way to view the kind of relationship that exists between a population and the authority allocated to its state institutions. However I believe that Weber was wrong to claim that the state is the source of legitimate authority and that the population responds with faith in it. If this were the case, all state-builders would have to do is place a charismatic leader in power, resurrect ancient institutions, create new ones, or put in place a rational-legalistic bureaucracy to have legitimate authority. State-building operations that have

⁴⁰ Max Weber, "Politics as Vocation," in *Max Weber's Complete Writings on Academic and Political Vocations*, ed. John Dreijmanis, trans. Gordon C. Wells (New York, NY: Algora Publishing, 2007), 157.

⁴¹ *Ibid*, 194-195.

focused only on these elements in the past have failed, implying another dimension to the problem. It seems that in this instance Locke and Hobbes were right; men must escape anarchy (nature) and make institutions before these institutions can remake men.⁴²

Just because a charismatic, traditional, or rational-legal system is placed over a population does not guarantee that they will come to see it as the legitimate. I argue that this is because these three institutions of authority are claims upon legitimacy, they are not the embodiment of it, nor can they create it. As noted above, legitimacy comes from the faith that the demos places in these institutions, not the other way around. Therefore, the direction of causality that Weber explains is incomplete. Claims to authority are only made legitimate when the population over which they will be salient recognizes their authority. If it is put in place at the behest of outsiders, then it is only natural for a population to resist it. Under these circumstances, the claimants to authority that Weber delineated compete for legitimacy. Even the most charismatic authoritarian dictator needs to be recognized as the authority before he or she has legitimacy. If this image cannot be projected then all the dictator has is power, not authority.⁴³ To be sure, there is a difference between a citizen's normative realization of a state and a serf's passive acceptance of one, but in both cases it is only through the subjects that authority is legitimated/created. Claimants may be capable of achieving authority through power and time, but the original source is not the claimant; it is the population.

It is important that we do not get caught up here with the problematic distinction between realism and idealism; state-building is both. With democratic-liberalism as the dominant political ideology, it makes sense that state-builders would seek to replicate it

⁴² Cf. Thomas Hobbes, *Leviathan*, 86-90; and John Locke, *Two Treatises of Government and a Letter Concerning Toleration*, ed. Ian Shapiro (New Haven: Yale University Press, 2003), 110; 194.

⁴³ Rousseau, *The Social Contract*, 52-53.

given the thrown-ness of their situation.⁴⁴ State-building is idealistic in that it satisfies the ideals of achieving institutional capacity and humanitarianism goals. However, it is also realistic in that it seeks to plug a whole in the international system of sovereignty that cannot be traditionally balanced against. From the perspective of an external actor, however, international security is the more important because of the increasing interdependence of global markets and politics. It is *fortuitous* that humanitarian issues need to be resolved to further the ends of security. The ultimate goal of state-building is the elimination of various threats to international security that incubate in the power vacuum of failed states. The test of whether or not state-building has been or should be pursued is whether or not the solution will be long-term and prevent recidivism insofar as it is possible. It is for the reasons articulated here that exogenous state-building must focus on both institutional capacity *and* popular legitimacy. Since the basis of legitimacy is the popular identification of social groups with state institutions, it follows that every effort should be made to ascertain these identities and incorporate them into the state-building process. This will involve regional pacification as well as a full understanding the identity landscape of the population, before conducting an informed referendum and drafting the state constitution(s).

To achieve this end, it may be necessary for an outside actor to engage in partition or federacy/partial autonomy. This option is off the table if the population themselves do not want to be separated from one another. If they do not, but are, then legitimacy may become completely out of reach to the intervening power as nationalist sentiments are kindled. However, in cases where a population does not want to remain in association

⁴⁴ C.f. Martin Heidegger, *Being and Time*, trans. Joan Stambaugh (Albany, NY: State University of New York Press, 1996), 135-137. Thrown-ness (*Geworfenheit*) is the term that Heidegger uses to describe the everyday reality into which being (*Dasien*) us thrown and extends form past to future.

with others, there is no legitimate way to oppose them. In the case of Iraq, the Sunni and Shi'a sects were far more opposed than the Kurds to a partition of the country. However, the Kurds were persuaded to remain part of the country, despite a long history of atrocities committed against them.⁴⁵ Had they wished to be separate from greater Iraq, then there would have been no just alternative than to let them go and for the state-builder to defend that decision. Partition is generally opposed as unrealistic or imperial; however, such bloodletting may in the long run be the most mature choice to make in the name of peace.⁴⁶ As noted above, I do hold that the Republika Srpska is an example of an unjust outcome and that, so long as its population does not want to remain unified with the Federation of Bosnia and Herzegovina, it is up to the international community to defend and help develop them so that peace can be reestablished.

The term failed state refers primarily to the inability of these states to carry out the most basic function of the contemporary 'nation-state', namely the provision of protection (security) through powers of extraction and coercion.⁴⁷ There are, however, only a few states that are capable and/or willing to expend the resources necessary to build up another state exogenously, despite the rather obvious security incentives to do so. The most prominent state-builders are the US and its NATO allies, the UN, and the EU with a combined total of 21 state-building operations since the end of the Second World War.⁴⁸ There is reason to believe that the list of actors is expanding, however, as

⁴⁵ Robert G. Rabil, "Operation "Termination of Traitors": The Iraqi Regime Through its Documents," *Middle East Review of International Affairs* 6, no. 3 (September, 2002), 14-16.

⁴⁶ John J. Mearsheimer and Robert A. Pape, "The Answer: A Partition Plan for Bosnia," *The New Republic* (June 14, 1993), 22-28.

⁴⁷ Tilly, *War Making and State Making as Organized Crime*, 181.

⁴⁸ Cf. James Dobbins, et al, in *America's Role in Nation-Building from Germany to Iraq* (Santa Monica, CA: RAND Corporation, 2003), xx-xxi; also, *The UN's Role in Nation-Building from the Congo to Iraq* (Santa Monica, CA: RAND Corporation, 2005), xxxi-xxxiii; and *Europe's Role in Nation-Building from the Balkans to the Congo* (Santa Monica, CA: RAND Corporation, 2008), xix-xxxiv.

Australia has engaged in state-building in the Solomon Islands and East Timor.⁴⁹ Moreover, resurgent powers like China are beginning to exert their international influence, particularly in African countries like Sudan.⁵⁰ However, the list of state-building actors is still very biased toward liberal-democracies. This is not much of a surprise given that commerce and democracy require an open forum for information to flow, leaving states that subside off of these institutions in a particularly vulnerable condition in relation to the threats arising from failed states. Although the problem would seem to be less pronounced in authoritarian regimes due to their extensive coercive capabilities and purported ability to track and block people and information, the 2002 spread of SARS out of Guangdong Province China is evidence that even these regimes have difficulty controlling the sort of threats that typically arise from failed states.⁵¹

Some scholars, however, advocate the traditional ‘western’ approach to state-building. In this view, violence and genocide are a necessary and unavoidable step in state formation. All of the world’s most developed states have gone through this trial by fire during their formative years. Therefore, these scholars argue, there is no reason to believe that we can or should prevent the violence that occurs at the founding of all strong states. In *The Paradoxical Nature of State Making: The Violent Creation of Order*, the authors argue that state failure is not the same as state-decay, but rather that the resulting violence *is* endogenous state-building.⁵² This line of thinking can be seen in Ernest Renan’s famous 1882 lecture at the Sorbonne, *Qu’est-ce qu’une nation?* In which

⁴⁹ Dobbins, et al, *Europe’s Role in Nation-Building from the Balkans to the Congo*, 173-206.

⁵⁰ Li Anshan, “China and Africa: Policy and Challenges,” *China Security* 3, no. 3 (Summer, 2007), 74-77.

⁵¹ The Chinese SARS Molecular Epidemiology Consortium, “Molecular Evolution of the SARS Coronavirus During the Course of the SARS Epidemic in China,” *Science* 303 (March 12, 2004), 1666-1669.

⁵² Youssef Cohen, Brian R. Brown, and A.F.K. Organski, “The Paradoxical Nature of State Making: The Violent Creation of Order,” *American Political Science Review* 75, no. 4 (Dec., 1981), 901-904.

he states that “historical research, in fact, brings to light the deeds of violence that have taken place at the commencement of all political formations... Unity is ever achieved by brutality.”⁵³ States are the products of unity and unity is a byproduct of violence, therefore violence is necessary for the state. But for the exogenous state-building school, it is hoped that state-building operations can circumvent the horrors concomitant with classical state consolidation.

But the entirely endogenous strategy overlooks the realities of today’s interdependent economic system. Allowing civil wars and atrocities to continue without intervention causes harm to this global system through mass migrations and increased violence. Moreover, since the Second World War, powers have asserted the existence of universal human rights and have in most (admittedly not all) cases sought to uphold them. Therefore, most scholars agree that exogenous state-building is *possible and necessary*, but they are cognizant of the inherent limitations for intervening states face, especially when attempting to reconstitute a unitary state after civil war. Marina Ottaway writes in *Rebuilding State Institutions in Collapsed States* that; “extreme fragmentation makes it impossible to reach an agreement among all the parties and also makes it more difficult for them to see that a stalemate has been reached.”⁵⁴ Similarly, Chaim Kauffmann writes that “restoring civil politics in multi-ethnic states shattered by war is impossible because the war itself destroys the possibilities for ethnic cooperation.”⁵⁵ But civil war and ethnic identity are not the only impediments to exogenous state-building. Amitai Etzioni notes

⁵³ Ernest Renan, “What is a nation,” in *Poetry of the Celtic Races and Other Studies*, trans. W.G. Hutchinson (London: W. Scott, 1882/1896), 66.

⁵⁴ Marina Ottaway, “Rebuilding State Institutions in Collapsed States,” *Development and Change* 33, no. 5 (2002), 1014-1019.

⁵⁵ Chaim Kauffman, “Possible and Impossible Solutions to Ethnic Civil Wars,” *International Security* 20, no. 4 (Spring, 1996), 137.

that state-building “will be difficult, slow, costly and, above all, next to impossible for outsiders to achieve. Cultivating respect for law where little exists, making a middle class, greatly reducing corruption where it is rampant – all are difficult tasks.”⁵⁶ Indeed they are difficult, but necessary, given the international security implications of not addressing them.

It is therefore the project of exogenous state-building to isolate group identities, in other words, identify them so that they can be protected under a blanket of security and be encouraged to manifest institutions that they will have ownership and faith in, thereby legitimizing them. Once this is accomplished, these territories should have the institutional capacity to stand guard against the security threats which threaten their own stability, as well as the security of all sovereign states, and resist the pull toward recidivism and state-failure. Below I have outlined three general strategies that state-builders can take to encourage state-building, either by leaving the state to develop endogenously (the least favorable option), engaging in direct exogenous state-building, or indirectly supporting endogenous state-building exogenously. Armed with a better understanding of this process, we can begin to articulate a set of strategies aimed at the creation of institutionally strong and stable states that will satisfy both humanitarian and security ends. In terms of agricultural and industrial societies, a well-governed state is always preferably to a poorly governed one, and some government preferably to none.

⁵⁶ Amitai Etzioni, “A Self-Restrained Approach to Nation-Building by Foreign Powers,” *International Affairs* 80, no. 1 (2004), 8.

1.2 – Three Strategies for State-Builders

Exogenous and endogenous state-building can be seen as two different strategies that strong states can follow in relation to failed states. The difference between the two is a question of whether or not to engage in direct military intervention. If a state chooses not to intervene directly, that is, by deploying force, then it can either wait for a state to develop endogenously or it can use aid and other incentives to guide the failed state towards a desired outcome. Teleologically, the aim of both strategies is the same; to allow for or create a legitimate regime with stable institutions that have sufficient scope and capacity, supported by identification, for its authority to be unimpeachable and to be capable of countering domestic security threats before they become international ones. Such a state, when it has finished forming, will not fall prey to outside actors, corruption, or overly ambitious generals. Instead, it will preserve itself against these threats and in so doing, increase security for all other states. In terms of regime type some scholars, such as Jose Maravall, would argue that this regime would be a western-style liberal-democratic regime.⁵⁷ Others, such as Robert Kaplan point to the success of authoritarian regimes in rapid economic development.⁵⁸ Fareed Zacharia on the other hand writes that democracy is little different than authoritarianism if it is illiberal and unconstitutional.⁵⁹ Prior to the question of regime type, however, is the strategic starting point for state-builders, they are expressed as follows: –

1. Direct Exogenous Intervention: Recognizing the international security threats that

⁵⁷ Jose Maria Maravall, “The Myth of Authoritarian Advantage,” *Journal of Democracy* 5, no. 4 (Oct., 1994), 17-24.

⁵⁸ Robert D. Kaplan, “Was Democracy Just a Moment?” *Atlantic Monthly* (Dec., 1997), 1-9.

⁵⁹ Fareed Zacharia, “The Rise of Illiberal Democracy,” *Foreign Affairs* 76, no. 6 (Nov./Dec., 1997), 22-29.

arise in failed states effect all, and that the domestic capacities of the government of such states is either insufficient or nonexistent, there arises a sovereign imperative to intervene militarily to engage these threats and state-build until that state is strong enough to resist them on its own. The best way to do this for a long term solution within the post-colonial context is to engage in state-building with sufficient resources to guard and build up the incipient state to the point where recidivism is least likely. The strengths of this strategy are that it allows the actor to quickly and directly influence the events occurring within the developing state. The major weakness of this strategy are that there is no guarantee whatsoever that the new or reconstituted government will have *legitimacy*. This strategy, otherwise known as *peacemaking*, has been employed predominantly by the United States (US) and its North Atlantic Treaty Organization (NATO) allies, the United Nation (UN), European Union (EU) and Australia.

2. Isolated Endogenous Development: Understanding that most of today's great powers and the first states of the modern era were formed through periods of violent internal conflict that aided in the formation of 'national' identities, this strategy advocates a hands-off approach. To counter the threats that arise in failed states, a state-builder should focus on their own defensive capabilities and prevent other states from intervening in failed states. The prevention of other states interference is heightened by the security dilemma and a desire not to see another country strengthened by some form of neo-colonialism. Historically, these rules have ceded power to more democratic institutions and market economies for their

greater extractive capabilities. Non-intervention is the key to allowing a *legitimate* national government to form and not just one that has the largest military or the widest *de jure* recognition.

3. Indirect Exogenous Support of Endogenous Development: As a compromise between military intervention and tacitly supporting humanitarian crises, this strategy seeks to provide indirect and peaceful support, preferably to weak states before they fail, but also to failed state populations that are suffering and displaced by the conflict. Intervention usually takes the form of providing aid to the populace, offering to oversee the peace settlements, providing opportunities to the population for asylum and education abroad, providing direct payments as a carrot for governments to reform and imposing sanctions when they go astray. In other words, this is a strategy of *peacekeeping*. It seeks to intervene only so much as it feels it must do to promote peace and avoids action that will reduce the rights of state sovereignty while trying to further humanitarian goals. This has been the primary UN peacekeeping strategy for most of that organizations history.

Regardless of what state-building strategy is used, the grounds for labeling the operation a success should be an increase of state capacity and legitimacy.⁶⁰ Whereas there seems to be the possibility of conflict between actors who choose the first and second strategies described above, particularly over the issue of direct military intervention vs. protection, the resulting disagreement does not seem to have sparked a

⁶⁰ Barnett R. Rubin, "Peace Building and State-Building in Afghanistan: Constructing Sovereignty for Whose Security?" *Third World Quarterly* 27, no. 1 (2006), 178-184.

war between intervening states yet. Simply put, states do not engage in state building because they *want* to, rather they do so because they *have* to. State-building is prohibitively expensive and does nothing to generate revenue the way that the old colonies did for Europe. It is a deadweight loss that is only justifiable on the grounds of human rights, national security, or creating a more open and stable global economy. Since no country wants to do it, the job falls to the UN, unless the justifications are so great that it draws in the US, NATO, or in the near future, some other great power, to action. Moreover, because the US is a permanent member of the UN Security Council (UNSC) and the US and NATO countries collectively are the largest annual contributors to the UN budget, the likelihood of a showdown between these institutions is virtually nonexistent.

What has not been answered yet is why failed states are the way they are. We can see the basics; lack of legitimate institutions, a changing global economic and security paradigm, juridical sovereignty, etc. But until we can see the evolution of the modern state from its beginnings, we will fail to fully understand how our own thrown-ness, our *historicity*, determines the perspective that we will take toward state-building and whether or not we have missed anything along the way. In short, we must figure out exactly what we hold the state to be before we can act positively to establish it elsewhere, otherwise all we are doing is replicating our institutions and assuming that they hold. Therefore, this next chapter will focus on defining the state and articulating how the system of sovereignty in which the state is embedded evolved out of a distinctly European context and whether or not there are hidden dangers we should be aware of when we try to exogenously replicate these institutions.

CHAPTER TWO: A GENEALOGY OF THE SOVEREIGN STATE

The state is among the most mysterious and profound creations of the human imagination. For Plato, the state (*polis*) was a reflection in institutions of the soul (*psyche*) and a change in one would nurture changes in the other.⁶¹ For the Romans, the state was the abstract embodiment of *imperium Romanum*; the *genius* Roman people and senate's authority.⁶² It was the glory of supreme authority, sanctioned by the Gods unifying of the various peoples of the republic. With modernity, the view of the state changed from the mystical to the rational, from the normative to the descriptive. Max Weber defined the modern state as "the monopoly of the legitimate use of physical force within a given territory."⁶³ Similarly, Charles Tilly described states as "quintessential protection rackets with the advantage of legitimacy."⁶⁴ It is impossible to engage in state-building efficiently without having an accurate description of what the state *is* and, if necessary, a normative claim as to what it should be. State-building, endogenous and exogenous, seeks to repair either directly or indirectly the weak institutions that lead to state-failure. But what is state success? It is ironic that most who advocate state-building are struck silent by the idea of actually defining what the state actually *is*. Deciding upon some objective empirical grounds for state success requires that a series of normative choices be made. The *telos* of state building is presumed to be what 'successful-states' have. It is therefore necessary that, from the outset we try to discover what the fundamentals of the state *are*.

An examination of the etymology of the word *state* and how its meaning has

⁶¹ Plato and Allan D. Bloom, *The Republic*, 2nd, Trans. by Alan D. Bloom (New York, NY: Basic Books, 1968/1991), 45.

⁶² J.S. Richardson, "Imperium Romanum: Empire and the Language of Power," *Journal of Roman Studies* 81 (1991), 1.

⁶³ Max Weber, "The Profession and Vocation of Politics," In *Weber: Political Writings*, ed. by Peter Lassman, trans. by Ronald Speirs (Cambridge: Cambridge University Press, 1994), 309-369.

⁶⁴ Tilly, *War Making and State Making as Organized Crime*, 169.

evolution over time is as good a place as any to begin. The centrality of a definition for the state is paramount because without being able to define it, we are operating blind in recreating it, having only a directionless state-building policy. Should all states really try to become Western-styled liberal-democracies? I will try to convince you that this is neither necessary, nor desirable, and that ultimately that choice can only be made by the population and not by the state-builder or the majority within the state subject to the state-building operation. We can impose any sort of regime, but without a population to identify with it, sustain it with legitimate authority, and perpetuate it in the absence of force, no regime produced by exogenous fiat will last long. Therefore, with a stable state as the teleological goal of state-building, we must find what we mean by failure, and conversely, what we mean by state-success.

The first substantive usage of the word *state* in its modern sense of something akin to *regime* is generally attributed to Nicollo Machiavelli's 16th century work *Il Principe*.⁶⁵ The way in which Machiavelli used this word caused its meaning to subtly change over the succeeding centuries. Whereas once state meant something temporally fixed (i.e. the status of something), it came to mean something that is abstract, a-temporal and unchanging. The novelty of this usage was that the estate, or property of the prince, did not require the owner but would survive him after his death. The Sovereign was not required for his realm to have sovereignty. This idea, simply put, was the creation of the Renaissance. The word *state* comes to English, like so many other words, by way of Old French (*estat – état*), which in turn comes from the Latin (*status* “standing, position”, from the verb *stare* “to stand”). In its original context, the state was that which stands.

⁶⁵ Roger Scruton, *The Palgrave Macmillan Dictionary of Political Thought*, 3rd, (New York, NY: Palgrave Macmillan, 2007), 662.

The Romans would use the word both to inquire about the ‘state’ of the Republic, or the *status* or *standing* of individuals.

Today, we retain this idea when we discuss social *status*; it is ones *standing* within society. We have also preserved the original, temporal meaning of state when we discuss a *state of mind*, a *state of matter*, or hear the US President’s *State of the Union* Address. However, the word state in the political context has been completely divorced from its original meaning through narrowing and semantic specialization. The specialization of the word *state* carries with it its own genealogy that cannot be divorced from the historical context of Western political development. In medieval Europe, state meant specifically personal status, and the territorial or property aspect of state-ness was inseparable from the social in this period. During the feudal era, if you had any social status, then you were propertied with an estate. Otherwise you were a serf or clergy (serf to Christ). It was inconceivable during this time that property and social status could be divorced and still exist. If someone did not have property or social status, they could give off the appearance of having them by being stately, but this was merely an illusion.

Machiavelli’s synthesis of the word seems to have been a synthesis of the way the word was used in society with the way it was used in the arts. This is not much of a surprise given that Machiavelli was a Florentine living at the height of the Italian renaissance. Within the artistic context, the *Latin* verb *stare* had led to *status* and *statua* (image/statue “that which is set up”). It was typical Machiavellian sleight of hand to use the word in its artistic sense of a statue; that which is set up and stands through time.⁶⁶

⁶⁶ *The Prince* aside, Machiavelli was actually a staunch republican and supporter of the arts. In 1504 he famously tricked both Michelangelo and Leonardo da Vinci (bitter rivals) into accepting commissions, financed by *gonfaloniere* Piero Soderini, to simultaneously paint two giant frescoes on two walls of the *Salone dei Cinquecento* in the *Palazzo Vecchio*, Florence. The frescoes were to depict two battles from

The evolution of the word state however did not end here as it would take on a new connotation of property without any owner but the abstract will of the people in the modern era. In short, the history that will follow details how the modern state is a relic of the ahistorical notion of social status among propertied persons, grafted as it were onto a culture attempting to legitimate republican and liberal institutions within the juridical confines of European Christianity and monasticism.

2.1 – Classical and Christian Origins of the Sovereign State

Within political science, there are two general approaches to understanding the state. For the sake of brevity, I will refer to these alternatively as the right-school and the force-school. Between the two, the right-school is the more ancient understanding and is as old as political philosophy. Essentially, its premise is that the purpose of the state is to shape institutions so that certain right or moral ends are pursued. All classical Greek and Roman philosophers believed that human beings can only reach their fullest potential through education and experience and that the state was the mechanism for correcting immoral behavior and encouraging correct moral development. It was this line of thinking that led the philosopher George W.F. Hegel to define the state as; “the actuality of the ethical Idea.”⁶⁷ The state was the ethical ideal of its citizens and, conversely, the purpose of the state was to develop ideal citizens. The rights you had under this system

Florentine history, Anghiari (1440) and Cascina (1364), but neither of them was ever completed. Presumably, these paintings were to bolster the ranks of the citizen militias he helped to create during the brief republic between the fall of Savonarola in 1498 and the return of the Medici family in 1512.

⁶⁷ George W.F. Hegel. *Elements of the Philosophy of Right*, ed. Allen W. Wood, and trans. H.B. Nisbet, (Cambridge: Cambridge University Press), 275.

were positive; you had the right to participate in making the laws of government and carrying out official duties.⁶⁸

However, this vision of citizenship has been largely cast aside since Machiavelli wrote the Prince. The new paradigm that espoused in the literature is the force school and it aims not at normativity, but description. As we described at the outset, social scientists like Max Weber have looked at the state as the monopoly over the legitimate use of violence or physical coercion.⁶⁹ In addition, the rights guaranteed by the state were no longer positive, but negative, in that they were rights against something.⁷⁰ Locke especially was an advocate for rights against the state, natural rights that could not be given up or taken away without being reintroduced into a state of nature.⁷¹ Contrariwise, in the classical world, the idea of rights that the individual could assert against the state would have been inconceivable. The state, or *polis*, was the source of all rights and to have rights against it would have meant that there were no rights at all. Every citizen was necessary for the maintenance of a free society and this meant constant preparation for war.

If a citizen were capable of claiming rights against the state, then the solidarity on which the state martial institutions survived would be in jeopardy. It was also inconceivable to the ancients that vice (greed) should be the basis of society. To engage in commerce and be a private person were despicable things not to be engaged in by noble citizens. Instead, such activities were left to the *metics* (resident aliens) in Greece or to the *plebians* and *equus* in Rome; never to someone with actual social status even

⁶⁸ Isaiah Berlin, *Four Essays on Liberty*, (Oxford: Oxford University Press, 1969), 121-122.

⁶⁹ Max Weber, *The Profession and Vocation of Politics*, 310-311.

⁷⁰ Berlin, *Four Essays on Liberty*, 121-122.

⁷¹ Locke, *Two Treatises of Government and a Letter Concerning Toleration*, 194.

though the profits to be made were great. This is because social status derived from public participation. Nobility were expected to be virtuous and earn their living through agriculture instead of manufacture and trade, both of which breed faction instead of solidarity. The modern focus on making the individual independent of the state meant the end of the era of citizen-soldier solidarity. The Greek word for someone who turned away from public for private life was *idiotes*, literally an idiot.

Lastly, the accumulation of property without limit was defined as avarice, it encouraged people to leave the public sphere and engage in meaningless private pursuits that would undermine freedom. Freedom, specifically, was the right of a citizen to be public and have a say in the creation of laws. The institutions of modern democracy still bear the vestiges of this era even as they consistently undermine the moral foundations that the ancients build civil society on. The values maintained in the democratic systems we see today are come from Greek and Roman thought, but also from Christianity. In particular, it is from the Christian tradition that we have built into our institutions the idea of *equality*. The Athenians may well have invented democracy as a form of government, but their society still had some 40 thousand Greek male citizens ruling a territory what encompassed some 400 thousand women, children, slaves and metics. Despite the concerted effort to turn away from Church institutions during the Renaissance and Enlightenment, the ideals that these institutions had habituated among the populace were far too subterranean to be extirpated. Therefore, even though neither the classical civilizations nor Christianity form the basis of the modern secular liberal-democratic state, aspects of them persist relatively unchanged, in particular the ideal of public participation, defense of one's own country, liberal education, and universal equality among citizens.

2.2 – The Transition to Modern-Secular Institutions

If we take Machiavelli and the renaissance to be the infancy of the modern era, we can see how property and status, and the legal exceptionalism of the sovereign were incorporated into a new secular and abstract vision of the state. Every state is perfectly capable of ‘nationalizing’ the private property within its borders because the body politic has retained the legal exceptionalism that was the sovereign’s personal privilege as lord and master of the realm. For instance, it was settled in the Peace of Westphalia that the sovereign had the right to choose the official state religion of his realm – the alternatives being Catholicism, Calvinism and Lutheranism at that time. The hegemony of the Papacy in European politics had entered its dying phase and with it medieval Europe. Moreover, during the reign of Louis XIII, Cardinal Richelieu ordered that all castles and defenses not essential to the defense of the kingdom be destroyed in an effort to neutralize the threats posed by feudal lords and centralize authority directly under the monarch.⁷²

Architecturally, this period saw a sharp decline in castle building and an increase in the construction of villas and palaces, including the great palace of Versailles in France and the famous villas of Palladio in Italy. In short, there was a juridical coup that took the power away from the 1st estate (clergy) and the 2nd estate (nobility), while providing new opportunities to the 3rd (commoners).⁷³ The king was now not only absolute, but legally his person had an immortal aspect that carried the permanence of his property – the realm. This was reflected in the remarks of Louis XIV, the more famous of which is not verifiable, but provides an interesting portrayal: “*L’État, c’est moi*” (‘I am the state’), and

⁷² James B. Collins, *The State in Early Modern France*, 48.

⁷³ William H. Sewell, JR. “Historical Events as Transformations of Structures: Inventing Revolution at the Bastille,” *Theory and Society* 25 (1996), 846.

on his deathbed in 1715: “*Je m’en vais, mais l’Etat demeurera toujours*” (‘I depart, but the state shall always remain’).^{74,75} In a process centuries earlier, all monarchs were claimed to have two bodies in juridical terms; the *corpus naturale* and *corpus mysticum*. It was through this legal mechanism that medieval legal scholars were able to judge the rights and dominance of the king over the realm and population, as such the idea evolved out of the most powerful political institution of that time; the church. Throughout the middle ages, church doctrine stipulated that Christ had two bodies. The first was the *corpus naturale*, the consecrated host on the altar. This is was the physical body of Christ that, through transubstantiation of bread into the body and wine into his blood of Christ, allowed for their consumption during Holy Communion. The second body, the *corpus mysticum*, was the church itself and all Christians as the body of the lord of hosts. In medieval jurisprudence the king had a *corpus naturale* (physical body) which would grow old and die, become diseased, etc.

In European jurisprudence however, kings also had the *corpus mysticum* (magical body) that was immortal, could never be destroyed and was representative of the power of his regime and society.⁷⁶ However, before the modern era, the *corpus mysticum* could be appropriated by conquest, lost with the extinction of a king’s line, or given away by abdication. In the modern era, the argument developed that it could be taken back by the people, the real source of sovereignty through revolution. Therefore, it took enlightenment thinkers to argue that the *corpus politic* (body politic) and that the people

⁷⁴ Mark Raeff, “The Well-Ordered Police State and the Development of Modernity in Seventeenth- and Eighteenth-Century Europe: An Attempt at a Comparative Approach.” *The American Historical Review* 80, no. 5 (Dec., 1975), 1231.

⁷⁵ Philippe de Courcillon, Marquis de Dangeau, *Memoire sur la mort de Louis XIV*, (Aug., 1715), 24.

⁷⁶ Ernst Kantorowicz, *The King’s Two Bodies*, (Princeton: Princeton University Press, 1997), 193-259.

in general were justified in taking this aspect of the king's person away.⁷⁷ Despite the change in who possesses the “body”, the separation of the sovereign remains standard practice. States are recognized to have *de jure* sovereignty (mystical), even when they have no *de facto* sovereignty (natural); a general predicament in failed states. Revolutions and the ideas that appropriated sovereignty to the body politic was the product of the 3rd estate, which was now coming to dominate the political system through the revolutions of Great Britain, the United States, and then France. Increasingly liberal markets and expanding international trade provided greatly increased extractive capabilities to kings just as it made them less necessary for the security of the state. When the king came to be a threat to security or stability, he was removed through revolution and the intellectual public of the bourgeois class led to a new political paradigm. But the appropriation of sovereignty, formerly in the possession of a single person, into a society of millions of persons, created some problems. It seems that the founders of these societies expected republicanism to foster this unity. They had forgotten that those who had invented these systems shunned commerce.

Unity did develop, but it was not through reason, it was through an emotion; nationalism. At his Sorbonne lecture, Ernest Renan conceded that “forgetfulness, I would even say historical error, are essential in the creation of a nation”, historical research is dangerous to the survival of the nation because it can reveal unwanted truths.⁷⁸ He also claimed that the nation existed through a ‘daily plebiscite’ or ‘referendum’.⁷⁹ These sentiments were the expression of 19th century nationalist identity that by that point dominated Europe. It was through a sense of nationalism that a state achieved the

⁷⁷ Mark Neocleous, *Imagining the State*, (Philadelphia: Open University Press, 2003), 8-28.

⁷⁸ Renan, “What is a nation,” in *Poetry of the Celtic Races and Other Studies*, 66.

⁷⁹ *ibid*, 81.

identification of the people with its institutions and became *legitimate*. Nationalism appropriated the sovereignty that was taken from the monarchs because a large population with manifold interests cannot easily wield it. But a population embracing a shared idea of self and history could, this is why the myth of the nation has persisted so long. It enabled the majority of the population to *identify* with the state, and the minority could always be claimed as the same as the nation, even when they were subjugated by it. The semblance of a common ethnicity/culture and historical destiny unified the population and gave a certain authority to state institutions.

This system lasted a century before serious problems began to surface. By the late 19th and beginning of the 20th centuries it was increasingly realized that few, if any, states of the world were really *nation-states*. The idea of the nation-state was maintained through two world wars because there was no alternative abstract idea capable of holding a large population of many interests and identities together. As Walker Connor describes, the word *nation* comes from the Latin and conveyed “the idea of common blood ties. It was derived from the past-participle of the verb *nasci*, meaning to be born. And hence the Latin noun, *nationem*, connoting *breed* or *race*.”⁸⁰ Connor goes on quote the French *Declaration of Rights of Man and Citizen*: “the source of all sovereignty resides essentially in the nation; no group, no individual may exercise authority not emanating expressly therefrom,” adding that “the drafters of the declaration may not have been aware, “the nation” to which they referred contained Alsatians, Basques, Bretons, Catalans, Corsicans, Flemings, and Occitanians, as well as Frenchmen.”⁸¹ It is no wonder that the terminology between state-building and nation-building has become so

⁸⁰ Walker Connor, *Ethnonationalism: The Quest for Understanding* (Princeton: Princeton University Press, 1994), 94.

⁸¹ *ibid*, 95.

confounded.⁸² Western-styled liberal-democracies are still in a position where some way of abstracting identification enough so that a large population can collectively share in legitimizing institutions is necessary for state-survival.

2.3 – State-Building in A Post-National Context

The important question arises, of whether our own institutions are compatible with the underlying logic of authority within our societies. This is a question of the utmost importance because our starting point in state-building is to replicate the strong and stable institutions we believe ourselves to possess. If these institutions are actually unstable then we may leave failed states close to where we found them to justify the colossal expense of engaging in state-building. Whether it is possible or desirable to impart western institutions to the failed states of the world is an open question and one that should be investigated. After all, is it not hoping for too much to drop western liberal democracy on societies that do not share the Christian and classical origins of this particular type of regime and expect them to succeed? The problem is not whether the populations of failed states can adopt institutions that developed out of a classical and Christian historical narrative, it is to what extent these institutions may conflict with that beliefs and identity that the populations of those states already possess.

If the answer is that they cannot, then the new state, supported by western liberal-democratic sovereignty will not be able to acquire legitimacy and authority. The idea of a secular centralized and democratic state may be offensive to some cultures living in failed states; indeed, the attempt to institute them in the past may have contributed to

⁸² Connor, *Ethnonationalism: The Quest for Understanding*, 92.

their failure in the first place. Problems arise when modern 'nation'-states attempt to intervene in other countries, particularly former colonies, and expect that political institutions will reshape the population into being more a cohesive nation. Nation-building, presumably, involves the building of a single ethnicity/race/etc. In reality, this cannot happen without replicating the purges that Hitler or Stalin carried out among certain ethnic/racial groups within their territories. What the French did after the revolution was educate the people toward embracing an artificial common identity. But this identity is itself artificial and there is always the threat that ethnicity will return as the dominant category of social interactions. The evolution of nationalism as a modern source of legitimacy is an extremely convoluted and mysterious process involving symbols and in many ways it is indicative of religion. This dogmatic attention to symbols and shared belief that is at the heart of co-opting a diverse population into a 'nation', it is a visceral emotional thing, you cannot force it upon a population. Institutions do not engender nationalism; instead it is nationalism that creates the institutions. You cannot institutionally force people to share a common identity in the short run, though education does seem to maintain it over the long run. The reason it is difficult to instill identity when state-building is because identity tends to be formed *against* something. The only way an outsider can do it is by being the opposition of the entire populace. But this is outrageous because no state would be willing to go to war and commit atrocities just so a failed state can become strong. Indeed, it is a bad idea since that strong state is likely to remember the favor in the future.

It is much more efficient for a state-builder to look to the identities already present within a failed state, ones that are forming in *opposition* to one another. We are

defined by what we resist, the struggle gives us identity and this is the surest and strongest rallying point for authority. However, in light of humanitarian and security concerns it is no longer possible to allow this drawn out process of identity formation to occur; it must be sped along. Since there are competing identities *already* within failed states, it may be safer and cheaper to encourage their realization into new state institutions. If an umbrella of security is maintained, then these groups will find alternate ways to forge their identity, through the differentiation of customs and dialect, through sports competitions and education. Once smaller states, more homogenous in terms of their shared identities are formed, they will be much more likely to identify with their institutions and legitimate them. There is a reason that few city-states tend to succeed. A city-state is small enough that the population is able to identify with and grant legitimacy to their institutions, and they are maintained because when there is the persistent existential threat of assimilation. Few would look at Hong Kong or Singapore today and see these as failed states. Singapore will not fade because the people have an identity that is not shared with mainland Malaysia, so too is the case between Hong Kong and China. It seems that the more threatened a polity feels, the more its members seek solidarity and share their identification with one another and institutions they deem legitimate.

We can now see that the modern state that is typically called the 'nation'-state is more akin to an empire than an internally homogenous 'nation.' It is almost always multi-ethnic and serious threats made at the unity undergirding state institutions are likely to be resisted through force. Unlike the empires of old which dominated other ethnic groups through military means, this is a soft-imperialism in that it consists primarily of ideas. The idea of a shared identity is a powerful tool for keeping a territorially extended state

together, but in few cases is there really an ethnic group so large. The classical, Christian, and early modern political developments of Europe tend to be viewed as the starting point for what state-building should seek to achieve: institutionally strong liberal-democratic states. However, these may antagonize a population rather than ally its identity into supporting its own state institutions. It is much more efficient to take advantage of the identities already present on the ground. This may involve partitioning a country into small, relatively weak states and maintaining sufficient international force in the area to prevent predation between each successor state. However, this is cheaper and more feasible than trying to create a unitary regime with western institutions in most cases. Smaller regimes, when threatened existentially from the outside, tend to focus their resources on solidarity and creating a sense of unity within the population. Since nationalism involves the suppression of other ethnic groups and their subsequent forgetting of that suppression, nationalism should not be seen as a useful tool for state building in most cases. In the following chapter we move on to a closer study of identity and how it is structurally significant to states.

CHAPTER THREE: STRUCTURAL SOLUTIONS TO STATE FAILURE

The Charter of the United Nations acknowledges the right of *all peoples* to ‘self-determination.’⁸³ This sentiment is reflected in both the *International Covenant on Civil and Political Rights* (ICCPR) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), which state that “all peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”^{84,85} There are, however, many populations around the world are denied the realization of this right. These populations have, by chance, ended up sharing a state with other groups they have may have little or no identification with. The borders of these states are in most cases the product of colonialism and reflect the dynamics of force and diplomacy between *European* powers – many of which no longer exist. But these states do not reap the benefits of their diversity in the form of constitutional pluralism. Conversely, the populations tend toward sectarian and ethnic atomism, resulting in conflict between identity groups. None of these groups are cohesive enough that, should they comprise nearly all of the population, they would be able to hold their own identity group together without it fragmenting into smaller units. Such conflict and instability is a major source of international insecurity and, therefore, the main impetus for state-building.

Why are these states together if their populations do not want to be? The answer lies in the system of state sovereignty. When the world began its rapid decolonization in

⁸³ United Nations, *Charter of the United Nations* (New York, NY: United Nations, 1945), see ch.1, art.1, pt.2, accessed 12, April 2012, <http://www.un.org/en/documents/charter/>.

⁸⁴ United Nations, *International Covenant on Civil and Political Rights* (New York, NY: United Nations, 1966), see pt.1, art.1, sec.1, accessed 12, April 2012, <http://www2.ohchr.org/english/law/ccpr.htm>.

⁸⁵ United Nations, *International Covenant of Economic, Social, and Cultural Rights* (New York, NY: United Nations, 1966), see pt.1, art.1, sec.1, accessed 13, April 2012, <http://www2.ohchr.org/english/law/cescr.htm>.

the decades following the Second World War, the principle of *uti possidetis juris* maintained the colonial administrative borders of these territories as a matter of sovereign right. This principle derives from the Latin phrase “*uti possidetis, ita possideatis,*’ or as you possess, so may you possess.”⁸⁶ It was a matter of international courtesy to grant these states sovereignty intact, but it failed to realize that the ethnic and sectarian conflicts within these territories would keep them from developing. As a result, today there are currently more than 59 *active* separatist movements around the world.⁸⁷ It seems that those who ‘possess’ these territories are not necessarily the people who inhabit them, but whoever the strongest group or individual in the country is. So employed, sovereignty is a tool for oppression, perverting justice as criminals extract from their populations behind the veil of international law and the sanctity of the sovereign state. This is a recipe for permanent conflict, as well as the reason why so many post-colonial countries have had such a terrible record of development. The reason for this is that identities whose interests are an expression of the general will are not permitted to emerge, because the demographic and territorial distributions of the country are held sacrosanct.

This is not to say that some states are not better off keeping the borders they currently have. Indeed, some peoples inhabit resource poor and landlocked countries that would benefit enormously with access to a common state market. What it does say is that state sovereignty as it is traditionally realized is the source of global insecurity and that it must be corrected if we are to fix the problem of failed-states. To illustrate the issue of territorial impregnability, we can look to the quintessential failed-state; Somalia.

⁸⁶ Paul R. Hensel, Michael E. Allison, and Ahmed Khanani, “The Colonial Legacy and Border Stability: *Uti Possidetis* and Territorial Claims in the Americas,” *45th Meeting of the International Studies Association* (2004), 2, accessed online, 20, April 2012 from Florida State University: <http://mailer.fsu.edu/~phensel/garnet-phensel/Research/io05.pdf>.

⁸⁷ Brian Beary, *Separatist Movements: A Global Reference?* (Washington, DC: CQ Press, 2011), 4-5.

Universally agreed to be a failed state, portions of this country, with a history that diverges from the rest of the country, like Somaliland and Puntland, are prevented from achieving *de jure* statehood even though they no longer desire to share a state with the remaining Somali's to the south and east. The world accepts as semi-independent the territory of Somaliland, even though the people declared their own independence and have de facto maintained it since 1991.⁸⁸ The central argument I have made so far is that it is only through recognition and incorporation of these emergent or pre-existing identities that a state-building project can be successful. State-builders should be seeking to reduce security threats posed against and this can only be achieved if the end result of the intervention is satisfactory for all identity groups within the new state(s).

The remainder of this chapter will look at the two ways in which contemporary states are structured. All functional states have either federative or unitary constitutive structures. A state may have long established precedent rather than a formal constitution, but in will still have a constitutive structure. A federative structure exists when the core has encouraged or allowed administrative units to control and entrench certain state prerogatives. A unitary structure secures all final authority within the core. Neither of these systems, however, remain in stasis and pure. They are merely perspectives that actors within states take toward the allocation of authority both in constitution and actual practice. Over time, federative and unitary structures interpenetrate one another. The Delian league began as a confederacy but ended with power centralized at Athens. The same was true with the Peloponnesian League and Sparta. The United States began originally structured as a confederacy, but with the constitution it became a federation

⁸⁸ Michael Walls, "The Emergence of a Somali State: Building Peace from Civil War in Somaliland," *African Affairs* 108, no. 432 (2009), 371-373.

and, since the end of the civil war, there has been a trend toward greater centralization of power within the Federal level with less derogated to the states. The vehicle for this has typically been the commerce or ‘elastic clause.’ A similar situation has occurred in Germany where the *Länder* have become increasingly administrative in scope and subordinate to an increasingly unitary central government.⁸⁹ The same holds true with unitary states. Due primarily to the problems of increasing scope and the misreporting of information at the lower levels, unitary structures tend to derogate, or ‘decentralize,’ their powers to lower administrative units over time.

Neither of these shifts in authority distribution require constitutional changes, unless a population has been under self-rule for such an extent of time that it see’s little need for the center anymore. This interpenetration is also fluid as the policy prerogatives that the core and periphery have change depending on the expedients facing the political structure. While not as efficient as a deliberate strategy, such as employing the principle of subsidiarity, states will naturally approach such a distribution of power between the highest and lowest administrative units over time that encourages stability and prosperity. Moreover, federative and unitary structures can exist in both institutional and territorial dimensions. For example, consociationalism is a federative structure that is divorced from territory and exists solely in the relations between social groups.⁹⁰ Consociational institutions will tie groups together regardless of what territory they occupy. However, in failed states, territoriality is more important because of the need to establish authority.

⁸⁹ Michael Burgess and Franz Gross, “The Quest for a Federal Future: German Unity and Federation,” in *Comparative Federalism and Federation*, ed. Michael Burgess and Alain-G. Gagnon (Toronto: University of Toronto Press, 1993), 175.

⁹⁰ Bernard J.S. Hoetjes, “The European Tradition of Federalism: The Protestant Dimension,” in *Comparative Federalism and Federation*, ed. Michael Burgess and Alain-G. Gagnon (Toronto: University of Toronto Press, 1993), 131.

Having consociational institutions overlap with the territorial structure is useful in democracies, but not in circumstances where no authority has achieved legitimacy in the people's eyes. Achieving territoriality in failed states will in most cases require an alignment of territory with social groups; this means that in some cases legitimacy may only be achieved through *partition*. However, partitioned states will in turn have to become federative or unitary when they are established. An alternative way of envisioning these two systems is as either M- or U-type structures. First we will examine the U-type or unitary structure.⁹¹

3.1 – Unitary States

We begin with the most proliferate constitutive structure in the world today, the unitary state. Most of the 193 states in the world can be classified as unitary regimes. A unitary regime is one that seeks to centralize decision-making as a principle. One of the benefits of such a system is that it can be highly efficient. When all decisions come from one source, they are highly uniform and this yields advantages in commerce because all laws and infrastructure will be the same everywhere in the state. Moreover, a unitary government minimizes the duplication of services that accompanies having multiple tiers of government with institutions operating semi-independently as they do in a federative system. By avoiding the duplication of services, a unitary state structure can achieve the same results with a much smaller bureaucracy. Additionally, unitary regimes are in a much better position to overcome parochial biases. Because the core must aim its policies at universality, it is usually the level of government that turns over social institutions that

⁹¹ Alexander Cooley, *Logics of Hierarchy: The Organization of Empires, States, and Military Occupation* (Ithaca, NY: Cornell University Press, 2005)

are unjust.⁹² To use the US as an example, states did work to undue the social injustices of our society, but the actual abolition of slavery, the granting of universal suffrage, and the desegregating schools would never have occurred had the central government not usurped the rights of states. If something is determined unjust for society as a whole, the core can intervene directly in the periphery.

However, the distance in time and space between events in the periphery and the core are one of the weaknesses of unitary regimes. To overcome the blindness that the core may experience vis-à-vis the periphery, the central government is likely to decentralize some of its tasks to lower administrative units. These units, being closer to the actual events and locals that policy must be conducted in, have access to real-time information that the center cannot always have. In this way problems like misreporting inefficiencies can be uncovered. Authority, however, is still held within the central government which has the right to take away the powers it grants to lesser administrative units. One means of decentralizing is through the principle of subsidiarity. First articulated by Pope Pius XI, it stipulates that decisions should be delegated to the lowest administrative level capable of carrying them out efficiently and completely.⁹³ However, some of the disadvantages that plague unitary state cannot be overcome so easily. With a highly centralized system, the possibility of majority tyranny increases. A good constitution will provide checks on power to safeguard this, but there is no constitutional limit on the center in relation to the sub-state units. As a result, many disasters can befall

⁹² Philip G. Roeder, *Where Nation-States Come From: Institutional Change in the Age of Nationalism* (Princeton, NJ: Princeton University Press, 2007), 44-45.

⁹³ Pius XI, "Quadragesimo Anno," *Encyclical on Reconstruction of the Social Order to Our Venerable Brethren, the Patriarchs, Primates, Archbishops, Bishops, and other Ordinaries in Peace and Communion with the Apostolic See, and Likewise to all of the Faithful of the Catholic World* (15, May 1931), Vatican Web Site, accessed 1, May 2012, http://www.vatican.va/holy_father/pius_xi/encyclicals/documents/hf_p-xi_enc_19310515_quadragesimo-anno_en.html

minority groups who are seen as nonconformist or subversive. The power of the central government to intervene and stop unjust social practices in the states requires that the center espouse pluralist policies. This has worked in countries like France with court's ruling in favor of minority Muslims during that country's multiple scandals involving girls wearing the hijab to school.⁹⁴ However, history is replete with cases where unitary states did nothing to intervene or actually encouraged attacks on minorities, as was the case in both Germany and Stalin's Soviet Union.

In regards to failed states, unitary regimes are not usually the best option. Among their advantages is the ability to create uniform laws and institutions across the country. Additionally, they can select administrators from the entire country's elite who are best qualified and place them in periphery posts to aid in their development. However, given that the identities within these countries are likely to be divergent, a unitary regime will lose legitimacy as different groups perceive it as distant and favoring one group over the other. This problem is exacerbated if the state is large and multi-national. A unitary regime is a good option for failed states that are homogenous and preferably small. City-states are primary candidates for unitary government because the geographical closeness of the population to the center of power allows for quicker legitimacy acquisition than when the state is far away and its reach, abstract. Another important factor is literacy. If a state has low literacy rates and no access to contemporary media technologies, then no democracy can exist. Democracy requires a public space where open debate can occur. When the greatest issues of importance are local and there is no means of getting

⁹⁴ Sarah V. Wayland, "Religious expression in public schools: Kirpans in Canada, hijab in France," *Ethnic and racial studies* 20, no. 3, (July, 1997), 546-554.

information accept in face to face interactions with other locals, then the public airing of ideas between people of different beliefs and different parts of the territory cannot occur.

Unitary regimes that do not have to rely on oppression, seem to be successful in regions where the population is either homogenous, or where the state has been free from failure for long enough that a literate middle-class has developed and a public sphere has formed. Prior to this, it makes sense for unitary regimes to be authoritarian because the center must have the coercive power to do what it must in the periphery, since the people there will not have a firm grip on the state of the country as a whole (again, unless the country is very small). Overall, the opportunity for abuse in encouraging a unitary regime seems too great for failed states. The population is likely to be locally focused and as such, will leave the core to elites who may not be representative of all the country's ethnic or sectarian groups. Unitary structures may be of more use at the local level, but not as a country-wide system, at least not until the passing of time has allowed old wounds to heal and new associations between groups to be made. Failed states are almost always in a state of domestic anarchy and the preying of one group upon another does much to eliminate trust between them. It is for this reason that it is impractical to set up a unitary state in countries like Bosnia after the Yugoslav wide civil war of the 1990s. In such circumstances, federative structures offer better opportunities to achieve stability and eliminate security threats.

3.2 – Federal States

Federal structures are very different from both the M- form and U- form types of governance.⁹⁵ This is because they are by nature decentralized and there are various ways in which a state can distribute authority. A unitary state can only distribute authority from the top-down. Federalism can be broadly divided between symmetrical federalism, asymmetrical federalism, and confederacy. A confederacy is a federation in which the constitutive units retain all but a few powers. Essentially, the units of a confederacy are federal or unitary states themselves that have entered into an agreement to share certain institutions of government between them. A federation can be described as a unitary state that has employed the principles of confederation on itself. The units below the central government have constitutionally entrenched powers that the central government cannot arbitrarily take away.⁹⁶ Among the benefits of constitutional entrenchment of lesser administrative units are the advantages of pluralism. Pluralist systems are a divide and rule method that seeks to multiply the factions within a state so that the only means of accomplishing goals are through cooperation, toleration and respect.⁹⁷ This means that the different peoples who form a state together have a sort of unity that comes out of “organized diversity,” allowing for greater “freedom and efficacy than centralized empire, or the chaos of unconnected actors.”⁹⁸

⁹⁵ Cooley, *Logics of Hierarchy: The Organization of Empires, States, and Military Occupation*, 27.

⁹⁶ Christopher Hughes, “Cantonalism: Federation and Confederacy in the Golden Epoch of Switzerland,” in *Comparative Federalism and Federation*, ed. Michael Burgess and Alain-G. Gagnon (Toronto: University of Toronto Press, 1993), 155.

⁹⁷ Michael Burgess, “Federalism and Federation: A Reappraisal,” in *Comparative Federalism and Federation*, ed. Michael Burgess and Alain-G. Gagnon (Toronto: University of Toronto Press, 1993), 7.

⁹⁸ Jeremi Suri, *Liberty’s Surest Guardian: American Nation-Building from the Founders to Obama* (New York, NY: Free Press, 2011), 267-268.

Some scholars such as Yingyi Qian and Barry Weingast point to the economic advantages that constitutional division of authority allows for.⁹⁹ Entrenched decentralization means that decisions are made closer to local sources of information, making the decisions made more responsive to prevailing local conditions and changes in the local socio-economic environment.¹⁰⁰ However, Fukuyama points out that this can be a double-edged sword as both Argentina and Brazil have been led to budget deficits by fiscal federalism.¹⁰¹ Moreover, the advantages of pluralism cannot be reaped without a constitutionally protected federal structure.¹⁰² Overall, however, federalism has proven to be an exceptional system at sustaining economic growth and stability. The few drawbacks that this structure does have are duplication of services and the inability of lower administrative units to initiate radical social change which may be necessary for the survival of the system. It is in these instances that a good constitution will allow the central power of the federation to step in and act as a facilitator for change. This system, however, also has certain problems when it is placed in a failed-state context.

Since group identities in failed states can be outright hostile to one another, there is no guarantee that states will not simply secede or enter into civil war when no compromises are reached. Compromises entail a spirit of cooperation or, at the very least, a willingness to accept state authority when things do not go the way of your group. When people are not convinced that their group is being adequately represented, they may feel alienated by this system and try to exit. This can create a whole new cycle of conflict within the state. One solution to federation is to make it asymmetrical, that is, for

⁹⁹ Yingyi Qian and Barry Weingast. "Federalism as a Commitment to Preserving Market Incentives" *The Journal of Economic Perspectives* 11, no. 4 (Autumn, 1997) 83-85

¹⁰⁰ Fukuyama, *State-Building: Governance and World Order in the 21st Century*, 70.

¹⁰¹ Fukuyama, *State-Building: Governance and World Order in the 21st Century*, 25.

¹⁰² D. Elazar, *Exploring Federalism* (Tuscaloosa, AL: University of Alabama Press, 1987), 87; 90-1.

different constitutive units to have various degrees of autonomy vis-à-vis the core. The US is an example of a symmetrical federation. Each state has the same rights as all of the others and one can simply move from one to the other without any problems since they are all administratively unified. In an asymmetrical relationship, one state may have partial to nearly complete autonomy as compared to the other units. This enables an identity group to test the waters so to speak before having to jump in. There are powerful economic incentives that discourage a state from secession, in particular the open access to a free market. Seceding is not always the best option for a people to take as they are depriving themselves of the public goods a larger state can offer, especially security. While these states have many advantages that enable them to effectively acquire authority in failed states, they are not always ideal because both symmetrical and asymmetrical federalism may not give the desired freedom and autonomy to divergent identity groups. This makes federacy and partitions the most useful structural solutions for state-builders to mediate the problem of identity conflict within a given territory.

3.3 – Partition and Federacy

Federacy should be discussed apart from federation because it really is a unique political structure. A federacy is not merely a federal state because it can be the only such relationship in an otherwise unitary state. Nor is it a confederacy arrangement because a confederacy requires that both parties enter into the relationship as equals.¹⁰³ Instead, a federacy is an arrangement that can exist between any state structure, federative or unitary and a territorial region. One way to define the federacy is as a halfway point

¹⁰³ Alfred Stephan, Juan J. Linz and Yogendra Yadav, *Crafting State-Nations: India and other Multinational Democracies* (Baltimore, MD: Johns Hopkins University Press, 2011), 208.

toward full incorporation into a central state, a stop on the way to independence, or a permanent arrangement in which both parties gain substantially. As noted before, the federacy tends toward the third example as federacies gain substantial advantages that prevent them from seceding and their entrenchment in the system makes it very difficult for the core state to take powers away from them. Federacy is the ideal structural solution for failed states because it can sidestep the primary cause of conflict between identity groups in these states – access to scarce resources. Therefore, this solution gives two or more peoples a political vehicle through which to express their group identities in such a way that legitimizes institutional authority, yet avoids conflict. In the case of Iraq, the decision of the Kurds to remain a part of that country instead of seceding during the American occupation greatly improved the potential of the new Iraq to succeed. One day the Kurds may well decide that they no longer want to be part of this country, but in the meantime, they bring a constitutionally defensible plurality to what may otherwise be a regime that on way back to tyranny. The Kurds in turn retain all the advantages of being Iraqi just as they have gained real powers of self-determination.¹⁰⁴

The federacy is as unique an arrangement as it is a successful one. There are many federacies in the world, over 60 being constituted since the nineteenth century, most of which have been highly successful.¹⁰⁵ The Protections that such polities enjoy depends on their relationship to the central government. In states that do not have strong constitutional protections, federacy's can use the stability they provide to maintain their

¹⁰⁴ Liam Anderson & Gareth Stansfield. "Avoiding Ethnic Conflict in Iraq: Lessons from the Åland Islands," *Ethnopolitics* 9, no. 2 (June 2010); 219-222.

¹⁰⁵ David A Rezvani, "Dead Autonomy, A Thousand Cuts or Partial Independence, The Autonomous Status of Hong Kong," *Journal of Contemporary Asia* 42, no. 1 (February 2012), 94.

autonomy. Such is the case with Hong Kong, which has maintained its autonomy vis-à-vis the People's Republic of China because it provides that country with an enormous reservoir of capital to sustain growth, in short, their autonomy is secured not so much through constitutional entrenchment as through the political-economic incentives that it brings to the Chinese government not to encroach into Hong Kong affairs.¹⁰⁶ Due to these advantages for satisfying all parties involved, the federacy should be pursued as the ideal way to resolve endemic identity conflicts within failed states. The opportunity to express this identity within semi-autonomous spheres of influence can stay the tide toward secession movements and civil war that would otherwise throw the country into chaos.

One situation exists in which federacy cannot be justifiably maintained. Once a state-builder has established a blanket of security, identified the various group identities among the populace and encouraged institutional formation, the population may decide that they do not want to remain in the same country as the other groups and wish to form their own state. In this context, the only justifiable course is partition and it is incumbent upon the state-builder to prevent recidivism and a reemergence of conflicts between the new sovereign entity and those that have chosen to remain together. Partition, long vilified as something empires inflicted on the rest of the world, is also a legitimate means for group identities to emerge from a context in which they do not feel federacy can provide them with the security and assurances they require. That being said, partition will always be bloody and involve an increased security presence to stave off nationalist attacks on minorities as populations transfer to either side of the new international boundary.

¹⁰⁶ David A Rezvani. *Dead Autonomy, A Thousand Cuts or Partial Independence, The Autonomous Status of Hong Kong*, 94-106

CONCLUSION

Although partition and federacy approach the issue of giving voice to group identities from very different angles, they are both successful means of doing so. The main difference between the two is that federacy attempts to do so in a way that is not traditional for sovereignty, but dividing it up between different units within a core state's territory. Partition is the more traditional solution of trying to give different identities voice by separating them into independent sovereign states. Neither option should be treated as a cure-all since they have different circumstances under which they are ideally employed. However, since the ultimate purpose is the establishment of lasting security within the sovereignty vacuum posed by state-failure by eliminating the ethnic and sectarian identities that tend to clash, both options should be pursued as the primary structural goals of state-builders. Unitary and federal regimes have their place in development but should not be held in high regards for most failed states. Therefore, future state-building operations in the context of failed states after military intervention, should first seek to establish security and identify the primary group identities among the population. Secondly it should foster these identities to build up institutions that the population can identify with. Lastly, it should encourage the writing of a constitution that provides partial-autonomy for divergent identities if they wish to remain in the same state. If not, then a state-builder should carry out partition in accordance with the desires of the people.

As we have seen, the sovereign state is a very peculiar thing with a long and varied history. From its emergence in early modern Europe to today, it has proved highly adaptive to an ever-changing world and it would be wrong to assume that its days are

numbered. However, as adaptive as state sovereignty is, it has consistently failed to protect the smallest of political groups and does not work equally well in every cultural context. To aid in the process of state-building and giving voice to group identities, it may eventually be reevaluate the role state sovereignty plays in the international system. As articulated above, state sovereignty was originally predicated on a system of unitary, absolutist principalities. Few states in the world bear a resemblance to this early-modern political context. Indeed the opposite appears to be the case as state sovereignty is being stretched upwards to international and supranational entities and downwards to local decentralized powers. What we may see in the future is a sovereign system that more closely resembles the Holy Roman Empire than the age of absolutism.

As we progress into the 21st century, we should embrace the evolution of state sovereignty. The potential that an increasingly fragmented world has for diversity may actually make the world more peaceful as smaller groups are able to formulate institutions they can identify with. In this paper, I have tried to show how identity is the source of legitimacy for political institutions and how this legitimacy can best be incorporated into the state-building process through federacy and, as a last resort, partition. As a point of caution, state-builders are advised to not be overly ambitious and remember that we are all trapped by the historicity of our situation. Sovereignty has evolved from divine right of the king's person to an abstract idea of authority emanating from the body politic. Whatever the future may hold for state-building, it will be necessary for sovereign states to act in their own interest and guard against the security threats endemic to failed states. If we are fortunate, state-building will mature as a science to the point where we can reliably meet both humanitarian and security ends.

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