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UNIVERSITY OF CALIFORNIA, SAN DIEGO

The Vanishing Peace:
Why Belligerents are Increasingly Reluctant to Make Formal Concessions

A dissertation submitted in partial satisfaction of the
requirements for the degree Doctor of Philosophy

in

Political Science

by

Cameron Shepherd Brown

Committee in charge:

        Professor David A. Lake, Chair
        Professor Jesse Driscoll
        Professor Erik Gartzke
        Professor Gershon Shafir
        Professor Branislav Slantchev

2014

The Dissertation of Cameron Shepherd Brown is approved, and it is acceptable in

quality and form for publication on microfilm and electronically:

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Chair

University of California, San Diego

2014

DEDICATION

To my parents, Robert and Sherry, who poured my foundation;

To Miriam and Boris, my parents through marriage, who built my roof;

To my wife, Rinat, who fills that home with love;

And to Eli and Rafael, my boys, who fill my home with joy.

EPIGRAPH

And it shall come to pass in the end of days… and they shall beat their swords into plowshares, and their spears into pruning-hooks; nation shall not lift up sword against nation, and they shall learn war no more.

Isaiah 2:2-4

וְכִתְּתוּ … וְהָיָה בְּאַחֲרִית הַיָּמִים חַרְבוֹתָם לְאִתִּים, וַחֲנִיתוֹתֵיהֶם לְמַזְמֵרוֹת לֹא-יִשָּׂא גוֹי אֶל-גּוֹי חֶרֶב, וְלֹא- — יִלְמְדוּ עוֹד מִלְחָמָה.

ישעיהו ב:ב-ד

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"May your house be a meeting place for sages," it says in *Pikei Avot* ("Wisdom of the Fathers", a part of the Talmud) so "that you might sit at the dust of their feet and drink their words thirstily." In this regard, fortune has been exceedingly kind to me. For the past seven years, I have been surrounded by minds of the highest caliber— penetrating and insightful, knowledgeable and wise.

At the Department of Political Science at the University of California, San Diego, I was first and foremost honored to have David A. Lake as my advisor. Be it classroom discussion or office hours, David cuts right to the crux of the matter. He sees where arguments still need work, where dots have yet to be connected, and yet points these issues out in a manner that exemplifies constructive criticism. Dedicated, engaged and possessing boundless patience, David has commented on endless drafts of proposals, chapters, and papers related to my dissertation. Most flattering of all is the way in which David treats his graduate students as colleagues in the making. He epitomizes what a mentor ought to be.

The rest of my dissertation committee was invested in this project in the way such committees are meant to be in its platonic ideal. Each member complimented the other's knowledge and viewpoint, and served as a key resource for me throughout this work.

Branislav Slantchev has spent hours upon hours with me putting the pieces of this puzzle together. His prodding me to clarify casual mechanisms and logical

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I not only had the privilege of studying with some of the finest faculty in the world, but with some of the finest graduate students as well. Those students focused

on international relations in particular during the years I was on campus were an enormous resource for me, and included Jonathan Markowitz, Yon Lupu, Michael Plouffe, Chris O'Keefe, Patrick Rogers, Megan Becker, Cesi Cruz, Ben Graham. The late Ben Horne, a Ph.D. candidate in economics whose real interests lie in the study of conflict, also made a number of helpful comments. Having had them in rich and ready supply throughout grad school spoiled me; as we are now thousands of miles, they are sorely missed.

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I also thank the gracious Tanisha Fazal for sharing data and discussing ideas with me, despite the fact that I was advancing an alternative theory that sought to address a question she had worked on. Andy Owsiak was also willing to share an updated version of his published dataset as well, without which chapters four and five may have been impossible to accomplish.

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Finally, a word of thanks to my family. This dissertation could not have happened without the endless support of my parents, Sherry and Robert, and my parents through marriage, Miriam and Boris Dvoriansky ("in-laws" does them no justice).

Most importantly of all, I thank my wife, Rinat. For the past seven years since I began this degree, Rinat has paid a heavy price for this endeavor. She left her home, her family and friends, and she put her career on hold, all so I could pursue this

degree. Despite inhuman exhaustion and stress, she took on burdens of child-rearing and managing our home in order to give me time to pursue this project. I held her in the highest esteem before we left for California, but now I am simply in awe of this person who I have the pleasure and the honor to call my wife. I am exceedingly blessed to have her as my biggest fan, my best friend, and the love of my life.

Finally, it is duly noted that portions of chapter 1 and 4 are part of the forthcoming article "The Intended and Unintended Consequences of the Territorial Integrity Norm." The dissertation author was the primary (sole) investigator and author of this paper.

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"Wanting to Have Their Cake and Their Neighbor's Too: Azerbaijani attitudes towards Karabakh and Iranian Azerbaijan," *Middle East Journal*, Vol. 58, No. 4 (Autumn 2004).

ABSTRACT OF THE DISSERTATION

The Vanishing Peace:
Why Belligerents are Increasingly Reluctant to Make Formal Concessions

by

Cameron Shepherd Brown

Doctor of Philosophy in Political Science

University of California, San Diego, 2014

Professor David A. Lake, Chair

Since World War II, less than a third of all interstate wars have ended in peace treaties. Instead of countries making formal concessions, fighting often ends with cease-fires that leave forces in place without belligerents resolving their underlying conflict. Before World War II, however, fighting was usually quickly followed by a peace accord, in which defeated countries formally renounced political claims—

usually regarding sovereignty over territory. So why do adversaries no longer end

hostilities with peace accords, opting instead for long-term cease-fire agreements?

I contend that as the territorial integrity norm became increasingly robust, it

weakened the victor's outside option and strengthening the bargaining position of the

defeated by making unilateral annexation of conquered territory far more costly. At

the same time, the norm made formal concessions far more permanent, as the defeated

could no longer renege and re-conquer lost territory without incurring substantial costs

for violating that same norm. Thus, the territorial integrity norm, precisely by making

peace deal agreements more credible, made them harder to reach.

After exploring the historical development of the territorial integrity norm, I

conduct quantitative tests of my theory using an original dataset I constructed for all

interstate wars fought from 1816-2007. I find that neighboring states with settled

boundaries *before* hostilities began are far more likely to sign peace agreements—and

do so more quickly—than states with *ex ante* contested borders. Prior to the advent of

this norm (i.e. before 1919), however, the opposite was true: having settled boundaries

actually reduced the likelihood of signing a peace accord. I also find that the territorial

integrity norm altered the terms of peace. Historically, peace accords granted winners

new territory; but under the territorial integrity norm, peace accords now generally

return belligerents to international (or *antebellum*) borders, or alternatively refer the

dispute to third party arbitration.

If the territorial integrity norm matters, then strategically-minded states should

anticipate no longer being able to invade their neighbors in order to conquer their

territory. Testing this proposition for all neighboring countries from 1816-2001, I find

as the norm became more robust, neighboring states with settled borders have become

far less likely to go to war than similar neighbors with contested borders.

Chapter 1:

Why Has Peace Become Elusive?

THE PUZZLE

Since World War II, few wars have ended with a peace treaty. Instead of sides making *de jure* political concessions that resolve the underlying conflict, fighting generally ends with cease-fires that leave forces in place without sides officially renouncing any of their claims. These cease-fires are often perceived as temporary in nature when signed, with belligerents believing that the underlying conflict will be resolved eventually—either through further negotiating or future fighting. Yet, more often than not, peace treaties are never signed.

Until World War II, however, war termination looked quite different (see Table 1-1 below). Fighting generally was quickly followed by a peace accord, whereby defeated countries were coerced into making *de jure* renunciations of political claims—usually regarding sovereignty over territory—before victors were willing to end hostilities.

Table 1-1: Number of wars that ended in peace treaties
as a proportion of total wars fought[1]

Concert of Europe (1815-1918)	League of Nations (1919-1945)	United Nations (1945-2008)
32 of 39	14 of 18	13 of 41
(82%)	(77%)	(32%)

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[1] In chapter 4, I discuss coding rules for this variable and how this sort of breakdown is problematic as not every belligerent necessarily signs a peace deal (if one is eventually reached). Here I code a war as having a peace treaty if any "war-dyad" signed a treaty, which biases against my claim.

Likewise, before World War I, states usually wasted little time coming to the dotted line (see Figure 1-1). Of the 32 peace treaties signed between 1816-1918, more than half were signed either at the end of hostilities or within a month thereafter, with the average time being five months. Less than 10 percent of those 32 agreements took more than a year to conclude. Since World War II, however, on the rare occasion when peace treaties are concluded, it is only after 47 months (on average), with many being signed decades after fighting has ended.
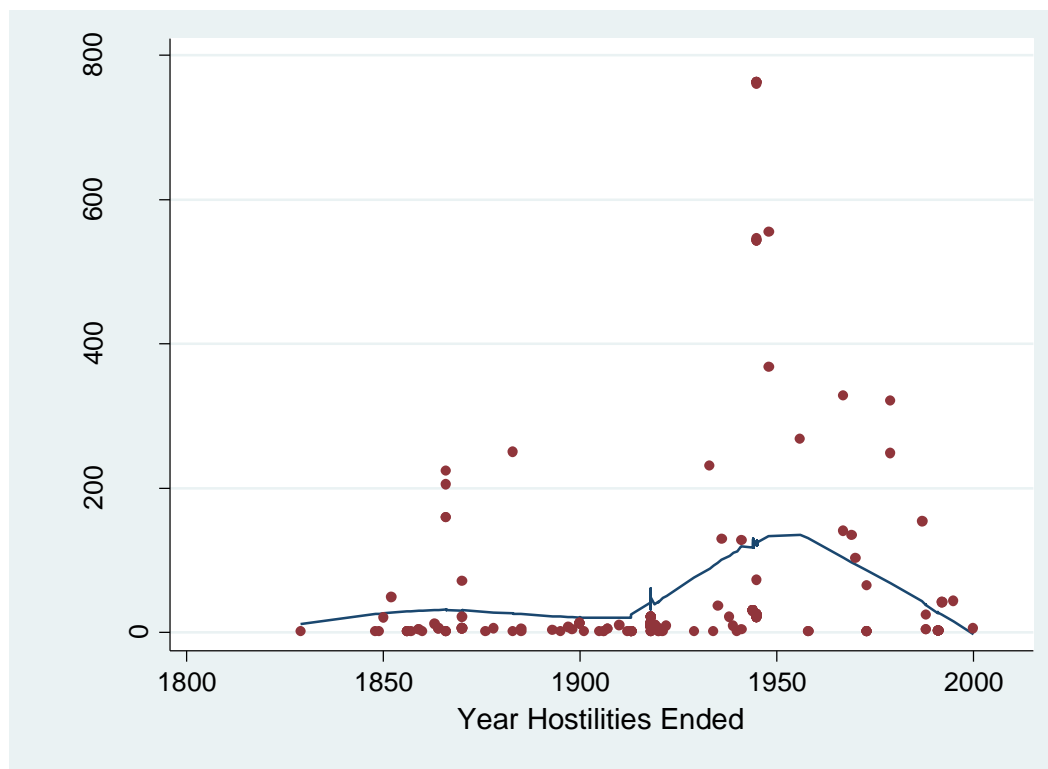
Figure 1-1: Time Elapsed Between End of Hostilities and Signing Peace
(Lowess Estimator)

Even when peace treaties are not signed, some peace negotiations have themselves been puzzling. Consider the conflict over the disputed autonomous region

of Nagorno-Karabakh. After three years of fighting, 30,000 dead, and over a million refugees, Armenian forces had definitively routed their Azerbaijani adversaries. Armenians had gained control over both the disputed Karabakh region, and occupied an estimated 14 percent of Azerbaijani territory *beyond* what was initially in dispute (see Figure 1-2).[2] In the course of the 20 years of negotiations that have followed, Armenia repeatedly offered to return these undisputed territories in exchange for Azerbaijani recognition of Karabagh's independence (or a referendum on the issue, which would essentially lead to the same outcome). Still, until today, Azerbaijan has refused this offer.[3]

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[2] For a nice summary of the conflict, see Shaffer 2002b. For more in-depth studies, see Dehdashti-Rasmussen 2006, Shaffer 2002a, van der Leeuw 2000, and Hiro 1998. For a look at how this conflict is part of the larger Azerbaijani foreign policy debate, see Brown 2004.

[3] Two important caveats are in order: First, Armenia has sometimes claimed the Lachin Corridor in addition to Karabagh, which would connect Armenia with the enclave. Second, there appears to have been one point—the Key West Talks in 2001—at which Azerbaijan's late president Heyder Aliyev actually agreed to give up Karabagh. The talks initially stalled over the Armenian demand for Lachin, but when Aliyev's advisors found out what he had offered (they had apparently been in the dark), it seems they convinced him it was a mistake. (Source: background interview with an anonymous U.S. official who played a key role mediating this conflict.) With this in mind, it seems fair to say that the country has still not been willing to accept the compromise offer.

Figure 1-2: Post-war cease-fire lines in the Nagorno-Karabakh conflict
(1994-present)[4]

Especially in light of the bargaining literature on war (see literature review below), it is odd that Armenia is willing to give up strategically crucial territory in exchange for what appears to be a non-credible Azerbaijani commitment to forfeit the disputed Karabagh region. This commitment is not credible because after Armenia withdraws, Azerbaijan would have no additional barriers to re-initiate hostilities, and, in fact, would be in a far superior strategic position to win than before the peace agreement. Armenia's offer is also counter-intuitive because, in practice, the sides are generally abiding by the cease-fire.[5]

Azerbaijan's refusal to sign an agreement regarding Nogorno-Karabagh is not a lone case either: several other cases exist of parties victorious in war who offer to return most of what they won—offers generally rejected by the defeated. For example,

[4] The graphic is from *The Guardian*, Oct. 14, 2009.
[5] There are, in fact, frequent infractions of that cease-fire. However, the casualties from these infractions are relatively miniscule, sometimes resulting in a casualty or two. The worst incident (Mardakert in 2008) ended with, at most, 20 dead.

in March 2000, Israel's offer to withdraw from nearly all of the Golan Heights was met with Syrian rejection. Palestinians rejected Israeli proposals in July 2000 (Camp David) and January 2001 (Taba), and the "Clinton Plan" of December 2000—all of which would have given them a state that controlled over 90 percent of the West Bank, all of Gaza and parts of East Jerusalem. Similarly, Greek Cypriots rejected peace plans in 1986 and in 2004 (by referendum) that would have ended the Turkish occupation of Northern Cyprus. Finally, for over forty years, India refused to make any concessions in order to resolve its border dispute with China, despite a widespread appreciation inside the country for its inability to reverse China's definitive victory in 1962.

Before World War I, this was not typical behavior. Although victors did in some cases offer to return conquered territory in the framework of a peace treaty, defeated countries like Azerbaijan or Syria would have accepted such offers. Heads of state would have thought that if ever the balance of forces should change in their favor, they could renege on their commitments and launch a new war to win back all the previously forfeited lands. In this case in particular, the strategic geography of the land being offered would greatly advantage Azerbaijan in such a future war. At the same time, historically leaders would reason that if they will forever lack the material power to regain lost territory (as demonstrated by previous fighting and present alliances) then it is optimal to gain as much territory and resources as possible. Either way, such offers would generally have been accepted.

So after hostilities end, why do adversaries now usually maintain long-term cease-fires, whereas historically, wars were concluded with peace accords? And when peace accords are signed, why does it now take so much longer for countries to arrive at an agreement?

THE ARGUMENT

This dissertation argues that increasingly effective international enforcement of the "territorial integrity norm"[6]—as enshrined in a series of treaties banning the forceful acquisition of territory[7]—led to a dramatic reduction in the number of interstate wars ending in peace accords.

In order to consider the impact of this norm, it is best to begin with the counter-factual: an international system operating under the guiding principle of the "right of conquest" (which was in effect until 1919). Under this normative system, victors had the right to annex territory that they conquered in war. While frequently victors would coerce vanquished opponents into signing peace deals in which they forfeited this territory *de jure*,[8] such forfeitures were not essential for the victor to

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[6] On the norm, see Barkin and Cronin 1994, Zacher 2001, Fazal 2007, and Atzili 2007. Hensel et al 2009 disagree on effectiveness. Following Zacher (p. 215), I define the territorial integrity norm as "the growing respect for the proscription that force should not be used to alter interstate boundaries."

[7] Historically, this norm first emerged with the adoption of the Covenant of the League of Nations following World War I. Article X of the Covenant declared that "Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League." This prohibition was born of a belief that nations go to war primarily in order to gain additional territory and the resources territory provides; thus, eliminating such opportunities would blunt the core motivation for going to war in the first place. See chapter 2 for a full description of the development of the norm.

[8] Suggesting that all wars boil down to a bargain over sovereignty over territory is likely to encounter some concern. By this I mean that parties may either dispute which state ought be sovereign over a

acquire sovereign title. Instead, the *sine qua non* for territorial acquisition was that the victor possessed undisputed *de facto* control over the territory and the vanquished had ceased its attempts to re-conquer it.[9]

The right of conquest increased the incentives for defeated parties to sign peace treaties that included formal concessions in two ways. First, the possibility of unilateral annexation meant that the conqueror had a very strong hand during negotiations—possessing a credible, highly beneficial outside option. Given the defeated side had no attractive alternatives, should the victorious state offer a settlement shy of its outside option (unilaterally annexing all conquered territory), defeated countries should have taken it and quickly.

The second reason defeated parties were more likely to make formal concessions was because such forfeitures were considered by all parties to be of limited sincerity and permanence. Part of this limited sincerity derived from the fact that concessions were often made under duress.[10] As Machiavelli wrote in *The*

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given territory or that parties disagree about which regime ought be sovereign over the state. Either way, parties are in disagreement about who should be sovereign over a given territory.

Much of the research on the causes of war has, in fact, found that the vast majority of interstate wars are indeed fought about who will be sovereign over a given territory (Holsti 1991, Vasquez 1993, Hensel 2000, Huth 1996 and 2000). Having gone through histories of all 95 interstate wars from 1816-2008, my research found that sovereignty over territory was an issue at stake in every single war fought since 1815, even if that was not the trigger for fighting. Consider, the Football War between Honduras and El Salvador in 1969, which was not ignited due to territorial dispute; still, there was a territorial element to the conflict which had to be resolved via binding ICJ arbitration. Even the strongest potential exception to this trend—the Boxer Rebellion of 1900—ended with foreign powers gaining new basing rights on Chinese territory.

[9] De Arechaga 1983; Hall and Higgins 1924; Halleck 1861; Jennings 1963; Korman 1996; and Phillipson 1916.

[10] Carl Von Clausewitz provides evidence of this in his infamous treatise *On War* (Chapter 1), "If the enemy is to be coerced, you must put him in a situation that is even more unpleasant than the sacrifice you call on him to make. The hardships of the situation must not be merely transient—at least not in appearance. Otherwise, the enemy would not give in, but would wait for things to improve."

Discourses (Book 3, Chapter 42), "[T]here is no disgrace in disregarding promises that have been exacted by force. Promises touching public affairs, and which have been given under the pressure of force, will always be disregarded when that force no longer exists, and this involves no dishonor. History offers us many examples of this, and even in the present times we have daily instances of it."

More importantly, the essence of the right of conquest was that countries in general were free to launch invasions when they pleased and claim title to any territory they conquered. Consequently, nothing could prevent the vanquished from eventually reneging on a peace accord should the balance of forces change in its favor, as it could then claim the same "right of conquest" to recover lost lands (and potentially additional territory as well).[11]

Since the international system has been guided by the territorial integrity norm, on the other hand, it has transformed the dynamics of post-conflict bargaining. First, forbidding the conquest of territory greatly weakened the bargaining position of conquering states by reducing the value of their outside option. This is because *de jure* annexation almost never gained international recognition,[12] and instead the victors incurred some measure of political, economic, and even military sanctions in response—unless it is accompanied by a *de jure* forfeiture by the defeated. Moreover, simply the act of occupying an adversary's territory, even without formal annexation,

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[11] Three hundred years later, the prevailing norms were remarkably similar. As British Secretary of State Lord Bathurst said in 1815, "Great Britain knows of no exception to the rule that all treaties are put an end to by a subsequent war between the parties." In 1845, then-U.S. Secretary of State James Buchanan, Jr. similarly maintained that international law held that war generally terminates all subsisting treaties between belligerents. See Hurst 1921/22.

[12] This change in international behavior began with the inception of the Stimson Doctrine in 1932.

has sometimes been considered a step in the direction of conquest, and thus also often resulted in the imposition of international censure and sanctions. In the face of particularly brazen violations of the norm, such as Korea in 1950 and Kuwait in 1990, the international community threatened and sometimes employed military force in order to reverse such transgressions.

For this same reason, the territorial integrity norm has increased the allure of the defeated states' outside option. With the victor paying costs for conquest so long as the vanquished does not make *de jure* concessions, the latter may harbor some hope that this international pressure will eventually force the victor's withdrawal without making any concessions of its own. Likewise, while under the right of conquest, Clausewitz would have rightly counseled the victor to press on with its attack in order to coerce its adversary into making concessions,[13] under the territorial integrity norm, such a strategy may very well backfire. In many modern cases, when victors penetrate deeper into their adversary's territory, it increases international diplomatic pressure on the victor (including coercive threats) to terminate hostilities immediately.

The second implication of the right of conquest being replaced by the territorial integrity norm is that concessions are no longer considered temporary and insincere. Instead, should a vanquished country forfeit *de jure* any territory it lost *de facto*, any future attempt to regain that lost territory through militarily action now risks international isolation, sanctions, or even military intervention as the defeated state itself would now be in violation of the territorial integrity norm. Consequently,

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[13] See note 10.

concessions under the territorial integrity norm will be considered far more permanent than historically was true. As Fearon (1998) pointed out, while a longer "shadow of the future" might make international cooperation more feasible by creating enforcement mechanisms, it "can also give states an incentive to *bargain harder*, delaying agreement in hopes of getting a better deal."[14] Thus, the territorial integrity norm, precisely by making peace deal agreements more likely to be enforced, made them harder to reach.

Still, bargaining is a two player game. How did the shift in norms affect the winner? One consequence is that victors now often make repeated offers to return much more of the conquered territory in exchange for official recognition of the rest. Should the victor gain such recognition, it would end the international costs the victor pays for its conquest. At the same time, if the victor has made large enough gains, maintaining *de facto* control might be worth bearing the cost of international sanctions—if the alternative is full withdrawal and the victor believes its gains will not be reversed by force.

Consequently, when belligerents sign agreements after hostilities are terminated, they now are more likely to conclude cease-fire agreements, where sides agree to terminate armed hostilities but without either side forfeiting its political claims.[15] When peace deals are struck, the defeated now have far more reason to hold

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[14] Page 270. Italics are in the original text. By "shadow of the future," Fearon means actors care about future payoffs and believe future interactions are likely.

[15] Richard Baxter argued that that "the conclusion of an agreement for the suspension of hostilities reflects not so much a free decision by the parties that they will cease to exercise a right or privilege" as historically was the case, as it now marks "an acceptance by them of the obligations of the Charter not

out for a return to international borders (or lacking those, to *antebellum* lines), or at a minimum, to refer the territorial elements of their dispute to binding third party arbitration.

While the territorial integrity norm has greatly strengthened the bargaining position of the defeated, bargaining remains a two-sided endeavor. What about the victor? I argue that this shift in norms explains why victors often make repeated offers to return much of the conquered territory in exchange for official recognition of the rest. Should the victor gain such recognition, it would end the international costs the victor pays for its conquest. At the same time, if the victor has made large enough gains, maintaining *de facto* control might be worth bearing the cost of international sanctions—that is if the alternative is full withdrawal and the victor believes the gains will not be reversed by force.

The territorial integrity norm contains a second, critical implication for the victor: if they anticipate not being able to gain territorial spoils from war (or if so, at a continual and substantial diplomatic, economic, and military cost), then it should reduce the incentive for stronger countries to attack weaker ones in the first place. As a result, countries with mutually recognized borders should now be far less likely to go to war than those who maintain contested boundaries—and this effect should be much

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to resort to the use of force." Since World War II, armistice agreements often included phrasing specifying that the agreement does not have legal implications regarding sovereignty, and that its only significance is military, i.e. that sides agree to stop fighting (usually as demanded by the UN Security Council). RR Baxter, "Armistices and Other Forms of Suspension of Hostilities", p. 384, as quoted by Bailey, 1982 (Vol. 1), p. 2. Bailey himself argues similarly on page 31.

larger than when there was no such prohibition in place (i.e. before World War I), or before the prohibition was robustly enforced (during the era of the League of Nations).

Finally, while I refer to "the international community," there is obviously no such entity. There is a collection of numerous states with different interests, some diametrically opposed to those of the territorial integrity norm. Even if divergent interests were not a problem, collective action would be. Who would bear the costs of enforcing this norm? I argue that the linchpin of the territorial integrity norm has been the United States. Not only was an American president (Woodrow Wilson) initially the primary evangelist of this norm, making it a central pillar a new international order following World War I, but successive presidents since Franklin D. Roosevelt (Democrat and Republican alike) would remain true to that vision. With an overwhelming majority of global power at its disposal following World War II, the United States proved willing to use that power to overcome this collective action problem, enforcing the norm in many instances when other states (friend and foe alike) had an opportunity for large territorial gains by contravening it. Similarly, it was American withdrawal from the management of the international system, combined with a more even distribution of resources amongst several major powers, which accounted for the relative lack of effective norm enforcement during the period of the League of Nations.

This chapter next reviews the literature in light of this puzzle, proposing a number of potential alternative explanations that compete with my theory. I conclude with a brief overview of the dissertation.

LITERATURE REVIEW

The Assumption of Functional Equivalence

The distinction between peace accords and cease-fires has been frequently overlooked in the vast literature on war.[16] One reason is because peace treaties and cease-fires are often assumed in this literature to be functionally equivalent. Formal models of war often assume (implicitly) that actors pay the same cost for losing control over territory, regardless of whether or not that loss is *de facto* or *de jure*.[17] Yet, if reneging on a *de jure* forfeiture imposes costs that breaking a *de facto* concession does not, this could reduce the pre-war bargaining space. Equally, bargaining models often assume that winners benefit equally whether or not they enjoy *de jure* or *de facto* sovereignty. If victors pay higher international costs when defeated countries refuse to make formal concessions, this also affects the bargaining space.

In terms of the bargaining model of war, the decision of defeated countries not to make formal concessions in exchange for the return of lost resources (such as the return of conquered territory in the Karabagh case) is actually contrary to what most models would predict. Since the seminal work of James Fearon (1995), many bargaining models have held that if both sides knew for certain pre-war that the attacker was going to conquer a piece of territory, then given the high costs inherent in

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[16] The main exceptions I am aware of include Seabury 1970 and Fazal 2013, who have both explicitly considered the historical pattern I address in the dissertation. Schultz 2013 considers what impact de jure versus de facto concessions have on the likelihood of the renewal of fighting. Werner 1999, Huth and Allee 2002, and Fortna 2003 also touch on certain aspects of this distinction.

[17] Most prominently, see Fearon 1995, Powell 1999 and 2006, and Slantchev 2004.

fighting, adversaries would prefer a bargain that voluntarily transferred the territory in order to avoid these costs of war.[18] According to these models, after wars have determined the victors, "private information" about each side's military capacity and resolve should have been fully revealed. Consequently, war should make actors (or at least the defeated) more flexible in their bargaining, as there should be no reason for defeated to refuse to sign a full peace agreement if they continue to pay costs for that refusal.[19]

The phenomenon in question is even more perplexing for theories emanating from the literature on credible commitments and war or the realist literature on war. Both of these literatures essentially view formal pronouncements as "scraps of paper" or "cheap talk"—worthless beyond the hard power sides can bring to bear to deter their adversaries from violating them.[20] Peace treaties, according to these views, should be elusive due to the now defeated party's inability to credibly commit to not renege and attack in the future. This should especially hold in cases like Karabagh, where the territory to be returned to the defeated country (e.g. Azerbaijan) would improve its future strategic position. In which case, *victors* should refuse to sign peace accords if they involve concessions, due to their inherent inability to trust the defeated party not to renege. Empirically, however, victors often make such offers. Defeated

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[18] Reiter 2003; see also Filson and Werner 2002, Goemans 2000, and Wagner 2000.

[19] The models in Slantchev 2003a, 2003b, and Leventoglu & Slantchev 2007 come to different conclusions. See Simmons 2006 for the economic costs sides pay for not coming to formal resolution of the conflict.

[20] Mearsheimer 1994 and 2001, Powell 1999 and 2006, Hathaway 2002, and Fortna 2004. On cheap talk in the formal literature, see Farrell and Gibbons 1989, and Farrell and Rabin 1996. For exceptions, see Sartori 2002. To be precise, most of the formal discussion of the term is in the context of credible threats and not in this context of credible commitments (where it is usually referred to as an agreement that is not "self-enforcing"). One example of this sort of usage in this context is Bapat 2006.

sides, on the other hand, often forego the benefits of signing peace accords unless maximalist demands are met—strongly implying that they take their commitments to be far more binding than the literature portends.[21] [True, some peace accords also impose demilitarized zones, third-party peacekeepers, etc. Yet, so do many cease-fires;[22] meaning that again, the peace treaty commitments should be, in themselves, no more credible than a cease-fire agreement.[23]]

Issue indivisibility—the claim that belligerents perceive the good in dispute (e.g. territory) as a whole which cannot be divided—might be the best rationalist answer for why belligerents fail to strike a long-term bargain. This thesis seems particularly apt for cases like the Arab-Israeli or Nogorno-Karabagh conflicts, where as described above, defeated sides refuse offers that would return large parts of the disputed territory, conditional upon their willingness to renounce claims to the rest. Yet, as the description of the empirical puzzle in the introduction makes clear, at least the victors in these wars do not see issue indivisibility as an insurmountable problem—they, in fact, frequently offer the defeated a division of the territory.

Thus, for issue indivisibility to hold as an explanation, it is the defeated party who must object to such a division. Until today, however, the literature on issue indivisibility has not considered this difference between victors and vanquished. If

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[21] Tangentially, the distinction made between hard law and soft law (Abbott and Snidal 2000) also gives us little leverage on these issues. Although it is true that peace treaties do require a larger degree of obligation than cease-fires, both of these types of agreements can vary widely in their precision and delegation.

[22] Fortna 2003.

[23] In fact, Page Fortna (2004) finds that none of these measures are infallible guarantees for peace, even if they do make continued peace more likely. Theoretically, they serve as screening mechanisms for a target country to know whether an outbreak of violence is a small scale skirmish or whether it must now prepare for full-scale war.

issue indivisibility is due to "ethnic attachments",[24] a perception of religious sacredness,[25] or the way actors legitimate their claims during the bargaining process,[26] then victors should also dress their claims in terms that make the issue indivisible. Yet, if the obstacle is the territorial integrity norm, then when losers negotiate they inevitably will demand the return of all conquered territories or continuation of the *status quo* in order to preserve international pressure on the victor. Victors, on the other hand, are seeking to revise previous borders, in contradiction to the norm. In order to entice the defeated into making such a concession, the winner is forced to offer more than it would if no such norm was at work.

Potential Alternative Explanations

1. International law in general has become more important

The most important alternative explanation appeared in an article by Tanisha Fazal in *International Organization* (2013). Fazal argues that this change in war termination was caused by the codification of the laws of war (*jus in bello*), which have meant that a state's leaders and soldiers alike may be charged and tried for war crimes. In order to avert that possibility, states seek to avoid any admission that they had been in a state of war. Should a state conclude a peace treaty, Fazal contends, it would serve "as an implicit acknowledgment that a state of war existed previously."[27]

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[24] Toft 2003.
[25] Hassner 2003.
[26] Goddard 2009.
[27] Fazal 2013, p. 696.

There are several problems with this theory, perhaps best demonstrated by examining the wars which began this trend of long-lasting cease-fires following World War II: the first Indo-Pakistani War over Kashmir in 1947, the first Arab-Israeli War in 1948-49, and the Korean War.[28] The first noteworthy aspect of these wars is that they all ended in very formal armistice agreements, which in many ways (including length and specificity) were similar to the peace treaties which were concluded in previous wars. These agreements also leave no room for doubt: a war had occurred. Besides regular referral to "termination of hostilities," all three agreements were negotiated *and signed* by commanding military officers.[29]

The appointment of military officers as negotiators and signatories was part of a larger strategy: countries (especially the defeated) were seeking desperately to avoid making any permanent formal political concession regarding sovereignty over territory. For instance, at the conclusion of their war over Jammu and Kashmir in 1947-48, India and Pakistan signed a cease-fire agreement establishing lines of control, in order to comply with demands made in United Nations Security Council (UNSC) resolutions. In the very first article of the armistice agreement, the sides refer to a letter from the UN Commission for India and Pakistan, which tried to lower the

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[28] While a small handful of wars previously had ended without ever arriving at a peace treaty, they were isolated affairs. These three wars established this trend of long-lasting cease-fires which would characterize war termination thereafter, including future wars in the Indo-Pak and Arab-Israeli rivalries.
[29] The Indo-Pak agreement begins by listing the military representatives who acted as negotiators. The Arab-Israel negotiations were concluded between military officers, and the Arab delegations at the signing ceremonies for all the post-1948 Arab-Israel agreements were headed by uniformed military officials (see Blum 2007, p. 29). The Korean Armistice also begins its preamble saying it is signed by "the Commander-in-Chief, United Nations Command, on the one hand, and the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers, on the other hand…"

stakes of the negotiations: "The meetings will be for military purposes; political issues will not be considered," and "They will be conducted, without prejudice to negotiations concerning the Truce Agreement."[30]

The armistice agreements arising from the Arab-Israeli conflict were far more explicit. In the Armistice Agreement Between Syria and Israel (July 20, 1949), for instance, the sides decreed (Article 2.2) that "no provision of this Agreement shall in any way prejudice the rights, claims and positions of either Party hereto in the ultimate peaceful settlement of the Palestine question, the provision of this Agreement being dictated exclusively by military, and not political, considerations."[31] Just in case doubts remained, Article 5(1) reiterates the point: "…the Armistice Demarcation Line… [and] Demilitarized Zone are not to be interpreted as having any relation whatsoever to ultimate territorial arrangements affecting the two Parties to this Agreement."

Though it did not belabor the point in the same way Arab-Israeli armistices did, the armistice ending the Korean War also took care to mention that "conditions and terms are intended to be purely military in character," and that "the objective of establishing an armistice" was a "complete cessation of hostilities" in Korea, which

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[30] Article A(2) and A(3). The Karachi Agreement can be found at <http://peacemaker.un.org/sites/peacemaker.un.org/files/IN%20PK_490729_%20Karachi%20Agreement.pdf>

[31] "The Armistice Agreement Between Syria and Israel, July 20, 1949" in Rabinovich and Reinharz 2008. All further quotations from this document are from this source. Almost identical language appears in the General Armistice Agreements between Israel and all of its neighbors (Egypt, Jordan, and Lebanon) that were signed in 1949.

would hold "until a final peaceful settlement is achieved."[32] Peace negotiations to settle "the questions of the withdrawal of all foreign forces from Korea, the peaceful settlement of the Korean question, etc." were to begin within three months of the armistice. Of course, as was the case in the other two conflicts—such a peacefully negotiated settlement was never achieved.[33]

Given the exclusively *military* nature of these armistice agreements, it is difficult to see how Fazal's theory can explain why no peace treaty was eventually signed. Moreover, while the avoidance of permanent territorial concessions figures prominently in these agreements, the question of war crimes does not, and for good reason: the Geneva Conventions—a crucial document in this regard and the only one which could possibly explain why war termination changed so quickly following World War II—was only initialed in August 1949; in other words, after the Indo-Pak and Arab-Israeli armistices were signed.

2. Reputation

Formal renunciations might obligate and constrain countries in other ways. One way for this to happen is if there are international costs to violating one's commitments in a peace treaty. One mechanism would be based on the theory that violating a peace treaty leads to a damaged reputation.[34] In this vein, one might

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[32] Korean War Armistice Agreement, July 27, 1953, found at <http://news.findlaw.com/cnn/docs/korea/kwarmagr072753.html>

[33] Armistice agreements in both conflicts were specifically intended to be stepping stones to permanent peace accord.

[34] Gelpi 2003 is most relevant, but also see Sartori 2002 and Tomz 2007.

suggest that states not party to the conflict would hesitate to enter into peace treaties with the violator—perhaps even hesitating to sign any kind of agreement with the violator (i.e. "reputational spillover" effects[35])—because the state has demonstrated a willingness to 'defect' in the past.

The weakness of reputational arguments is that in cases where there is only one actual foe with whom there are territorial disputes, we see empirically that countries are slower to make territorial concessions than cases where countries have disputes with multiple countries.[36] If there were reputational costs for breaking agreements, then we should see single-dispute countries signing and breaking these agreements because there would be little need for a reputation regarding peace agreements, as no additional deals are on the horizon. Regarding the potential "reputational spillover," given how salient and central these issues are for a country's politics, the benefit for violating an agreement seems to far outweigh the reputational costs it would impose. For precisely that reason, it is not clear at all that such violations would have reputational spillover effects. In other words, third parties would realize that the violation occurred in exceptional circumstances.[37]

The other weakness of a theory based on reputation costs to explain the shift to cease-fires is that it seems unlikely that those reputational costs have so significantly changed over time. In his analysis of three centuries of foreign debt, Tomz (2007)

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[35] This is usually discussed in the context of sovereign debt. See Cole and Kelbe 1995.
[36] Empirically, see Huth 1996, p. 157; theoretically, see Treisman 2004. Walter 2009 argues the opposite for governments facing domestic threats.
[37] Treisman 2004 makes a similar point.

shows how a sullied international reputation has always carried a heavy price tag for borrowers.

3. Neo-Realists: End of Great Power War

One promising realist explanation would focus on how following World War II, great powers stopped fighting each other as the world became both bi-polar and nuclear-armed.[38] As Stephen Krasner (2000, p. 142) argues:

> There has been no war among major powers since 1945, the longest period of peace in modern history…. The big single unambiguous change in the international environment is not ideational but material. As Waltz has pointed out, nuclear weapons are not only unprecedented in their level of destruction but they also promise certain large-scale death in a way that has not been true for any previous weapons system. Nuclear weapons have induced a level of caution that has not characterized earlier periods of international politics because they have removed any ambiguity about the costs of war. Material forces, especially the prospect of the destruction of everyone and everything that rulers might treasure, have induced more powerful constraints than the weak and contested norms associated with sovereignty.
>
> In this radically transformed system, each superpower has two contradictory

interests in any given conflict: 1) to avoid a direct confrontation with a nuclear power, out of fear of a possible nuclear exchange; and 2) to make sure that their adversary does not gain a post-conflict advantage. This meant that the United States wanted to ensure that the U.S.S.R. would not gain new allies and that Soviet allies fared worse than American allies. The converse was true for Soviet ambitions.

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[38] Waltz 1979, Gaddis 1986, Mearsheimer 1993, Krasner 2000.

Combined, these two interests would explain why, on the one hand, superpowers would intervene more frequently and would move to stop conflicts earlier than in the past; but, on the other hand, why superpowers would not really press for their resolution. The end of great power war is also important because the power differential (particularly military power) between belligerents and potential interveners grows post-World War II. Historically, intervention by a third party may have been undesirable, but it would not have been considered inherently catastrophic, whereas superpower intervention would likely be the deciding factor in a war between minor powers.

If this theory is accurate, we should expect to see an extremely sharp cut-off between durable cease-fires and peace deals. This pattern should not exist at all pre-1945. Likewise, we should anticipate some variation between the bipolar Cold War and unipolar post-Cold War systems. For example, if bi-polarity increased incentives of superpowers to intervene in far-flung places, then a unipolar system may translate into fewer incentives for the superpower, especially where its material interests (e.g. securing energy) are not at stake.

In terms of variation of actors, superpowers should be the main interveners, and smaller, non-nuclear countries should become less involved in interventions over time (at least during the bi-polar period, as one can propose a different logic for a unipolar system). This theory would also mean that when superpowers are belligerents in the initial fighting, the outcome should be different. Namely, we should see peace deals instead of durable cease-fires.

4. Changes in War

Of course, many other aspects of war may have changed over the past century. Perhaps wars once were more likely to produce clear military victories[39] or to see sides conquer more territory in the course of fighting. Perhaps states are now more likely to impose puppet regimes,[40] or historically wars were more likely to end in "state death."[41] Analysis of Correlates of War data (see chapter four) shows fighting itself takes longer, so perhaps that is impacting the time it takes to reach peace. Finally, the advent of neutral (usually UN-sponsored) peacekeeping forces might also have made long-term, relatively stable cease-fires a realistic option.[42]

5. Domestic Politics, part 1: Diversionary Foreign Policy

Besides the potential international explanations, there are also domestic-based theories which might explain why countries are increasingly reluctant to formally renounce their claims. The first is to be found in the diversionary war literature, which suggests that leaders prefer the perpetuation of outside conflicts in order to divert attention from domestic malaise and thus reduce opposition to their regime.[43] These theories hold that war is not inevitable (some even argue fighting itself would actually

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[39] Seabury 1970, Toft 2003 and Fortna 2009.

[40] Downes and Monten 2013.

[41] Fazal 2007.

[42] Seabury 1970, Fortna 2004.

[43] Levy 1989, Richards et al. 1993, Huth 1996, and Rubin 2002. True diversionary foreign policy theories are distinct from the "gambling for resurrection" theories, which posit that leaders who are failing (in terms of foreign or domestic policy) may fight wars to regain popularity. See Downs and Rocke 1994, and Tarar 2006. These theories give us no leverage on why countries refuse to make concessions for decades after wars are lost.

harm the regime). Rather, maintaining the conflict itself is the goal, and so even if an excellent bargain could be reached, these regimes would find excuses to avoid signing. As a result, even if the commitment not to attack is indeed cheap talk, governments will hesitate to make these commitments because if the conflict is officially resolved, the government can no longer use it as an excuse for imposing restrictions on civil rights, limiting democracy, etc.[44] If this theory is accurate, then publics could very well perceive formal renunciations as cheap talk, and indeed, we might expect for opposition movements to argue that when regimes promote unrealistic expectations about the ability to win a future conflict, they are using the conflict cynically.

6. Domestic Politics, part 2: Democracy, Accountability and the Schelling Conjecture

The other major type of domestic politics theory that might explain why countries do not end fighting in peace deals is based on the spread of democracies since World War II and the influence of democracy on warfare. Although the "democratic peace" literature does not offer a direct answer to our puzzle (because if democracies do not fight each other, it cannot influence the dynamics of war termination). However, the spread of democracy could impact war termination because it has resulted in more leaders being more accountable to their publics.[45] Yet, such an approach to this question suffers from immediate face validity concerns: those

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[44] Consistent with diversionary theory, Doug Gibler's work (2012; see also Miller and Gibler 2011) on the "territorial peace" shows that after territorial conflicts are settled, regimes tend to liberalize domestically.
[45] Doyle 1983, Lake 1992, Ma'oz and Russett 1993, Bueno de Mesquita and Siverson 1995, Huth and Allee 2002, and Bueno de Mesquita et al 2003.

defeated countries who refuse to make concessions run the polity gamut, ranging from democracies like India and Greek Cyprus to countries like Azerbaijan and Syria, which are among the globe's most autocratic. If Azerbaijan's Heyder Aliyev or Syria's Hafiz al-Asad were more accountable to their publics than leaders of previous generations, it was not because they were in any way more "democratic."

Another alternative approach derived from this literature would hinge on something unique in the way democracies bargain or fight versus the way non-democracies bargain or fight. In other words, historically, wars were fought between autocracies. When democracies fight autocracies, however, the dynamic is different. Some suggest that democracies are more capable of reaching a settlement short of fighting than are autocratic regimes, because they have internalized democratic norms,[46] their leaders have better bargaining skills,[47] or because possessing opposition parties can provide more credible signals about a nation's resolve.[48] Yet, none of these theories can explain why historically two autocratic regimes traditionally succeeded in striking post-conflict bargains that present-day adversaries typically cannot. This is especially puzzling given previous findings[49] who find that democratic dyads are far more likely (than mixed autocratic-democratic ones) to resolve disputes via negotiations than force.[50]

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[46] Ma'oz and Russett 1993.
[47] Dixon 1994.
[48] Schultz 2001.
[49] e.g. Huth and Allee 2002.
[50] Miller and Gibler 2011 dispute this, citing selection bias for the types of disputes into which democracies enter.

A potentially more promising branch of this literature has been the work on the "Schelling Conjecture," which posits that when one side has a domestic ratification process (i.e. it's a democracy), it gives that side's negotiators an advantage.[51] As Tarar (2001) points out, however, most of these models have only one side constrained by domestic politics, and the results are quite different if both sides are so constrained. Perhaps the most promising tack here is the approach taken by Garriga (2009), who essentially suggests that democracies are actually *less capable* of entering into bilateral treaties than autocracies because their additional domestic constraints reduce the bargaining range.

7. The Advent of Nationalism

Perhaps the advent of nationalism explains why it would be far more costly for leaders to relinquish claims to territory. For instance, following World War I, the newly elected German Chancellor Philipp Scheidemann refused to sign the Versailles Treaty, preferring instead to resign. When the new foreign minister, Hermann Müller, and Johannes Bell finally signed the treaty on behalf of Germany, it was the death knell for both of their careers. Likewise, even after the nuclear bombs were dropped on Nagasaki and Hiroshima, Japan's government faced a serious military coup attempt (the Kyūjō Incident) for considering surrender to the Allies.[52]

Yet these anecdotes demonstrate that while over time, leaders became far more reluctant to sign peace accords, they still eventually signed them. In fact, the biggest

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[51] Schelling 1960, Putnam 1988, Iida 1993 and 1996, Mo 1994 and 1995, Milner 1997, and Pahre 1997.
[52] Thanks to Dan Enemark for pointing out this example.

problem with this theory is that the advent and spread of nationalism (or even mass communications) far pre-dates the end of peace treaties. With nationalism nearly universal today, it also cannot explain why some belligerents at present do still sign peace treaties while others do not.

8. Conquest No Longer Pays

Another alternative hypothesis is based on the theory that "conquest no longer pays."[53] The argument is that "for millennia, societies were organized around landholding as the chief basis of both economic and political power."[54] Agriculture was the dominant economic activity, with labor generally tied to the land and economic power tied to one's capacity to wield agricultural surpluses. Following the Industrial Revolution, capital replaced land as the key source of wealth. Labor forces became skilled and politically active. Precisely because capital and labor have become highly mobile, the argument goes, it has become far more difficult to make conquest pay. Perhaps these changes can also explain the increasing reluctance to make formal concessions.

Beyond Liberman's (1998) critique of this argument (that ruthless instruments of domination can make conquest of modern societies profitable), the reason this is unlikely to explain the phenomenon in question is because many of the key cases of these post-World War II long-term cease-fires involved areas largely devoid of enemy civilians. For Turkish Cyprus, the Armenian-occupied parts of Azerbaijan, the Israeli-

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[53] Van Evera 1990-91 and Kaysen 1990. For a counter-argument, see Liberman 1998. Brooks 1999 considers the conditions under which this might be valid.
[54] Kaysen 1990, p. 49.

occupied Golan Heights and Sinai Peninsula, the Falklands, and the disputed border areas between China and India, these areas contained almost no enemy civilians post-hostilities. As such, the conquering states certainly could make conquest pay. Where these areas have not maximized their economic potential, it is due almost entirely to international sanctions.

OVERVIEW OF THE DISSERTATION

Chapter 2 explores the historical development of the territorial integrity norm. The chapter begins with a discussion of "the right of conquest," the norm which had previously governed international relations. I then describe the precursors to the territorial integrity norm and the norm's emergence during and following World War I. The chapter then traces the evolution of the norm by laying out key international documents, and briefly examines critical cases when the norm was violated—under both the League and the United Nations—in order to see how the strength of the norm has varied over time. Finally, the chapter briefly explores potential caveats to the norm: can a defensive war can end in territorial gains; and can force lead to territorial gains if the target was a colonial possession?

After exploring the origins and historical development of the territorial integrity norm, Chapter 3 lays out a comprehensive version of the theory about how the territorial integrity norm has transformed war initiation and war termination. In elaborating on the theory, I produce a number of testable hypotheses for each aspect of

how warfare has been transformed. The chapter also explores why states comply with norms in general. I then develop two methods for testing norm strength: one quantitative and one qualitative.

The next three chapters of the dissertation test my theory and alternative hypotheses utilizing a mixed-methods approach. In Chapter 4, I examine war termination by quantitatively analyzing all interstate wars from 1816-2001 (as recognized by the Correlates of War project). Here I test several hypotheses using an original dataset based on the histories of each war and analyzing the texts of the agreements which ended the fighting. First, I find that when the territorial integrity norm was more robustly enforced (i.e. after the UN was founded), states who had mutually recognized boundaries *before* they went to war were more likely to sign peace treaties—and do so more quickly—than states whose boundaries were contested *antebellum*. However, whether states had *antebellum* contested or recognized boundaries mattered much less before the advent of the territorial integrity norm (i.e. pre-World War I). Similarly, the territorial integrity norm altered the terms of peace: historically peace accords granted victors new territory; but under this norm, peace accords now were more likely to either require countries to return to the *status quo antebellum* or refer the dispute to international arbitration.

Chapter 5 argues that if the territorial integrity norm is at work, and strategically-minded states understand they can no longer simply invade their neighbors in order to conquer their territory, then the advent of the norm should impact war initiation as well. To test this, I employ a series of statistical models to test

the impact of mutually agreed borders on the potential for war onset by looking at all neighboring country-dyads from 1816-2001. In line with my theory, as the territorial integrity norm became increasingly solidified, territorial settlements greatly reduced the likelihood of war between neighbors (since World War II, by some 90 percent). Yet, before World War I, such settlements did not significantly reduce the chance of war. This change is not simply a product of different eras being more peaceful than others, as wars actually occur with similar likelihood in all eras. Instead, additional tests demonstrate that before World War I, even when borders were settled, the balance of forces between a country and its neighbor had a major impact on the probability war would break out between them. However, since that time (and particularly in the United Nations era), the balance of forces no longer impacts upon the likelihood of war breaking out *if neighbors have agreed upon borders*. Differentials in the balance of forces, however, remain an important factor for those neighboring states who maintain contested borders.

In Chapter 6, I conduct an in-depth qualitative study of Israeli and American decisionmaking during two moments when Israel considered whether to annex territory it conquered. The first case immediately follows the 1956 conquest of the Sinai Peninsula and the Gaza Strip. The second case is decision by the Begin government in 1981 to extend Israeli law to the Golan Heights, while deliberately refraining from *de jure* annexation. Utilizing protocols of cabinet discussions, parliamentary debates, and other archival material, the study leverages quasi-experiments in both cases to test the theory while considering alternative hypotheses

for these cases. More critical still, this study fleshes out specific casual mechanisms for how the territorial integrity norm operates to constrain countries who otherwise would gain greatly by annexing conquered territory.

Finally, Chapter 7 considers what these findings mean for larger issues in international relations. I specifically discuss the findings here in terms of the literatures on borders and conflict, "enduring rivalries", the bargaining model of war, and why states comply with norms. I then conclude with a discussion about what the changes explored here mean for the widely-held assumption of anarchy in international relations.

Portions of this chapter (1) are part of the forthcoming article "The Intended and Unintended Consequences of the Territorial Integrity Norm." The dissertation author was the primary (sole) investigator and author of this paper.

Chapter 2:

The Territorial Integrity Norm:

From Revolutionary in Theory to Transformative in Practice

On January 10, 1920, the Covenant of the League of Nations went into effect. In many respects, the document was revolutionary. The declarations and treaties forged during previous international conferences—St. Petersburg in 1868, Brussels in 1874, and in the Hague in 1899 and 1907—had modest aims: to attenuate and regulate war's most savage aspects. A core assumption of Oxford University's *The Laws of War on Land* (1880) was widely held by statesmen of the day: "War holds a great place in history, and it is not to be supposed that men will soon give it up…"[55]

The designers of the Covenant, in sharp contrast, ambitiously sought to end the plague of war outright. For the first time in history, a majority of nations around the globe pledged "to achieve international peace and security" by "[obliging themselves] not to resort to war" (Covenant Preamble). To this end, the Covenant obligated its members to refer disputes to international adjudication. In order to avoid a repeat of August 1914, the Covenant also sought to slow down the pace of dispute escalation so

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[55] Oxford's *The Laws of War on Land* stated its intention was to "contented itself with stating clearly and codifying the accepted ideas of our age so far as this has appeared allowable and practicable" and not to offer "Rash and extreme rules".

All historical agreements before 1914 cited in this chapter can be found at the International Committee of the Red Cross website:
<http://www.icrc.org/applic/ihl/ihl.nsf/vwTreatiesHistoricalByDate.xsp>

that countries—with their sometimes intricate web of alliances—would not spiral into an unintended war.

Of paramount importance, however, was Article X, which declared that "Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League." This article was the foundation stone for what would become known as the territorial integrity norm. This new norm was born of a belief that nations go to war primarily in order to gain additional territory and the resources territory provides; thus eliminating such opportunities would blunt the core motivation for going to war in the first place.[56]

Nearly as daring as either the goal of ending war or ending the right of conquest, the Covenant sought to enforce the Covenant's commitments by creating a collective security mechanism, whereby "Should any Member of the League resort to war in disregard of its covenants…, it shall *ipso facto* be deemed to have committed an act of war against all other Members of the League" (Article XVI). All members were committed to sever all financial relations (including trade) with the offending state, whether at the governmental or individual level. The League's Council could also recommend using military force to protect an attacked member's territorial integrity and sovereignty. Finally, to help overcome the collective action problems of enforcement action, members agreed to "mutually support one another in the financial

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[56] In 1907, countries ratified the Porter Convention, which forbid the use of force to collect debts—another reason states historically (though rarely) went to war.

and economic measures… in order to minimize the loss and inconvenience resulting from the above measures."

The League, of course, failed to adequately address challenges to this emerging territorial integrity norm, beginning almost immediately with the Soviet, and then Polish, annexation of Lithuanian territory. This was followed by the Japanese invasion of Manchuria in 1931, and the brazen Italian conquest of Ethiopia in 1935. When, in 1939, Germany invaded Poland and the USSR invaded Finland, the League's fate was sealed.

However, leaders did not conclude from this failure that the effort was in vain. Instead, governments actually redoubled their efforts by founding the United Nations in 1945. Many of the same mechanisms found in the League's Covenant are also found in the UN's Charter: collective security, international arbitration and deliberation, and of course, the territorial integrity norm. In Article 2(4) of the UN Charter, countries reiterated and expanded on the prohibition from Article X of the Covenant: "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."

While far from perfect, the UN has proven to be far more effective than the League at meeting threats to international peace and security, despite the gridlock resulting from the Cold War between the superpowers. So what changed? I contend that there were three main differences. First, the League's failures during the 1930s, climaxing with the unadulterated Axis attempt at conquest in World War II, impacted

the calculus of many states. Critically, it convinced other major powers (such as the UK and France), which previously equivocated on the universality of the nascent territorial integrity norm, to support these institutions wholeheartedly.

Second, material factors mattered: World War I saw the end of four major empires (Hapsburg, Ottoman, German, and Russian) that were each amalgamations of various ethnic groups and regions. Many of these regions now sought to become independent states, whereas victorious countries (like Britain, France, Italy, and Greece) saw these collapses as opportunities for territorial or colonial gains. With so much sovereignty in flux, and with so many of the victors standing to gain so much, the end of World War I was not an auspicious moment for the birth of the territorial integrity norm. The landscape following World War II, on the other hand, was that of a world with clearer borders and smaller states. The massive destruction left no country—spare the US and USSR—in a position to make substantial gains. Indeed, the quick decline of Britain and France even put in question their ability to hold onto the overseas possessions they already controlled. Given this weakness, the territorial integrity norm could have conceivably helped these major powers to lock in as many gains as possible.

Finally, and perhaps most importantly, the United States—which emerged from World War II as the preeminent global power—joined and led the United Nations. Both Presidents Truman and Eisenhower believed very strongly in the UN as an institution which could maintain global peace, and were both willing to leverage the country's massive diplomatic, economic, and even military might to promote both

the organization and its ideals. At several critical junctures following World War II, the United States proved it would use its overwhelming superiority to pressure both its allies and its greatest adversary (the USSR) to abide by the norm, even at the risk of military conflict. These American-led actions signaled to other leaders who might otherwise assail the territorial integrity norm that an unequivocal norm violation would run the risk of costly outside intervention.

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The following chapter begins by exploring the right of conquest—the norm which historically had always governed international relations. It is followed by a description of the precursors and origins of the territorial integrity norm. The chapter then traces the evolution of the norm by looking at foundational international documents and critical cases during the League and the UN eras when the norm was violated. Finally, this chapter explores potential caveats to the norm; particularly whether a defensive war can end in territorial gains, and whether force can lead to territorial gains if the target was a colonial possession.

THE RIGHT OF CONQUEST

Until the Covenant of the League of Nations came into effect, there was no prohibition on the right of a country to annex territory it had conquered during the

course of fighting. As Sharon Korman (1996) and others (Halleck 1861, Hall 1924, Hill 1945/1976, Cukwurah 1967, Jennings 1963, Sharma 1997) have detailed in great depth, there existed "virtually unanimous agreement about the presence of the right of conquest,"[57] and this held from early scholars of international law, such as Hugo Grotius (e.g. *Mare Liberum*, 1609) and Emmerich de Vattel (e.g. *The Law of Nations*, 1758), into the early twentieth century.

In so much as early international law was essentially descriptive of customary behavior rather than truly proscriptive,[58] the right of conquest accorded well with the general norm that any given state could "attack any other State whenever it pleased."[59] International law, as first spelled out by Grotius, even held that conquerors possessed unlimited rights over vanquished inhabitants as well—be it enslaving or killing them (including women and children) or simply plundering their wealth.[60]

Given the Hobbesian nature of pre-modern system, early scholars never thought the right of conquest was dependent on the "justness" of the victor's role in a conflict—even a country which attacked its neighbor without provocation could claim the right of conquest. As Sir Robert Jennings described the era before the League of Nations, "given a system in which war is no illegality it ineluctably follows that

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[57] Korman 1996, pp. 7-8.

[58] This point is disputed. One leading scholar of international law who seems to concur is Sir Robert Jennings, who subtly made this point as well: "… the successful deployment of armed force might serve not only to wrest the territory from the rightful sovereign but also to invest the conqueror with a superior title. We might even wish to question whether a system of rules that is compelled to make this concession is a system of true law at all…" R. Y. Jennings, *The Acquisition of Territory in International Law*. Manchester: Manchester University Press, 1963, pp. 3-4.

[59] Yoram Dinstein, *War, Aggression and Self-Defense*. Cambridge: Grotius Publications, 1988, p. 73, as cited by Korman.

[60] Korman 1996, pp. 29-30.

victorious war must be allowed to change rights [i.e. obtain sovereignty]."[61] Teddy Roosevelt, in a private letter put the point similarly, "In international matters, we are still in the stage that individuals were in certain western communities where… I lived thirty years ago, that is, there is no international police and there are certain nations which can be withheld from wrongdoing only by fear of the consequences."[62]

Judge Huber's judgment in the widely cited *Island of Palmas* case[63] elaborated on why international anarchy, in the fullest sense of that word, historically meant the right of conquest had to be condoned. Huber argued that in municipal law it is possible to have an abstract notion of title to property (i.e. disconnected from *de facto* possession) because it comes in a framework where law enforcement authorities can impose judicial findings on the disputing parties. In contrast, Huber wrote, "International law, the structure of which is not based on any super-State organization, cannot be presumed to reduce a right such as territorial sovereignty, with which almost all international relations are bound up, to the category of an abstract right, without concrete manifestations."[64] Jennings, commenting on Huber, argued that consequently "international law is indifferent as to whether there is a *quid pro quo*" (i.e. sovereign

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[61] Jennings 1963, p. 52.

[62] TR letter to George W. Perkins, April 6, 1916, as quoted by Ross Kennedy, *The Will to Believe* (2009), p. 15.

[63] The United States claimed sovereignty to the island, because it was granted to the United States by Spain in the Treaty of Paris of 1898. The Spanish claim to the island was of questionable authority, because while Spanish explorers had discovered the island, the Spanish government had not governed it. In the meantime, the Netherlands had colonized the same island and set up effective control over it. Judge Max Huber ruled against the American claim.

[64] As cited in Jennings 1963, p. 5.

title was exchanged for some benefit), because historically, title is transferred at the barrel of a gun.[65]

This is not to ignore conquerors' frequent attempts to justify their conquests in legal or moral terms, as many did cite "ancient rights" to areas they annexed. Still, it was widely accepted that the only factor that determined *de jure* sovereignty was who possessed the territory *de facto*, regardless of circumstances and even if the conquest was in total contradiction to previous treaty commitments. For this reason, countries who were unwilling or unable to reverse a conquest would eventually acquiesce to such conquests and recognize them *de jure*, no matter how much they opposed the act.[66] This was exemplified when Britain and others reconciled themselves to Austria's seizure and annexation of Cracow in 1846,[67] a city which according to the Treaty of Vienna in 1816 was supposed to be "for ever [sic] a free, independent, and strictly neutral city, under the protection of Austria, Russia, and Prussia."[68]

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In the following centuries, civilian inhabitants of conquered territories slowly gained certain protections, which by the late Nineteenth Century, were enshrined in international treaties. At first, civilians were accorded the most elementary protections and rights from the conquered: the right to life, liberty (i.e. not slavery), and property.

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[65] Jennings 1963, p. 19. Jennings contrasts this to English law, for which such *quid pro quo* is essential.
[66] Contrast with state behavior following adaptation of the Stimpson Doctrine; see below.
[67] Korman, pp. 81-82.
[68] Article VI. The General Treaty of the Final Act of the Congress of Vienna, 9 June 1815, available at < http://en.wikisource.org/wiki/Final_Act_of_the_Congress_of_Vienna/General_Treaty>

The Brussels Declaration concerning the Laws and Customs of War (1874, never ratified) and the Hague Conventions of 1899 and 1907 outlawed pillage outright.[69] Citizens could also not be coerced into swearing allegiance to the occupier, nor forced to take up arms against their previous sovereign. Furthermore, occupying powers were only allowed to commandeer material "which may be used for the operations of the war."[70]

These conventions went so far as to obligate belligerents to govern occupied territory (its legal status, at least until cessation of hostilities) exactly as had been done by the previous government, including maintaining the same tax rates. This meant that temporary occupiers could not extract exorbitant resources from conquered civilians as part of the spoils of war or to fund the war effort.[71] In fact, so long as legal title was not transferred, these taxes had to be "[devoted] to defraying the expenses of the administration of the country to the same extent as the legitimate Government was so obligated."[72]

Yet, for all the changes in the rights of the occupied and duties of the occupier, the fundamental right of states to acquire territory at the end of hostilities remained firmly intact.[73] Sir Henry S. Maine, Professor of International Law at University of

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[69] Brussels Declaration, Art. 39; Hague Convention (II) with Respect to the Laws and Customs of War on Land (1899), Art. 28.

[70] Brussels Declaration, Art. 6

[71] Again, until fighting had ended, which is when occupation became conquest, and then rights of inhabitants were dependent on the whim of the new sovereign.

[72] Brussels Declaration, Art. 5; See similarly the Hague Convention of 1899 (II) with Respect to the Laws and Customs of War on Land, Article 48.

[73] The only significant limitation on the right of conquest which arose during the 19th century was that annexation was only accepted once fighting had ended. Until fighting had ended ("*durante bello*"), the conquest was considered a military occupation and the rights and duties of the conqueror were

Cambridge, said of the subject in 1887, "'A complete title to the land of a country,' says the leading rule, 'is usually acquired by treaty or by the entire submission or destruction of the state to which it belongs.'"[74] Sir Robert Jennings held that treaties of cession—by which title was *de jure* transferred from one state to another—was usually "imposed by force of arms" and was "as a matter of history the normal way in which the victor would, at the peace, impose his will in respect of territorial changes upon the vanquished."[75]

Among the most authoritative and comprehensive tracts on the matter is found in Henry W. Halleck's sizable tome *International Law, Or, Rules Regulating The Intercourse Of States In Peace And War* (1861). In summarizing international law on the matter, Halleck writes that a state might acquire the territory of another "in various ways," including, "by a treaty of peace or of cession, by entire subjugation and the incorporation with the conquering state, by civil revolution and the consent of the inhabitants, or by the mere lapse of time and the inability of the former sovereignty [sic] to recover its lost possessions."[76]

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henceforth curtailed. See, for instance, the Oxford University's *The Laws of War on Land* (1880, Article 6) stated: "No invaded territory is regarded as conquered until the end of the war; until that time the occupant exercises, in such territory, only a ' de facto ' power, essentially provisional in character." See also Korman, p. 119; Jennings 1963, p. 52.

[74] Henry Maine, "Lecture XI: The Rights of Capture by Land," Lectures on International Law, 1887, published (2nd edition) in 1915. Available at Project Avalon <http://avalon.law.yale.edu/19th_century/int11.asp>.

[75] Jennings 1963, p. 19.

[76] Halleck 1861, p. 810.

De Jure *Concessions were Superfluous*

That last sentence in Halleck's summary is particularly noteworthy in light of the puzzle my dissertation seeks to address. Namely, it was not necessary for the vanquished to consent *de jure* to the annexation for title to be transferred, so long as the vanquished lacked the means of resistance. Coleman Phillipson, writing in 1916, held that a treaty of cession is one way sovereignty over territory is transferred, "but such a treaty, though desirable, is not indispensible, as a valid title may have been acquired without it."[77] Jennings contended the actual peace treaty was, in fact, superfluous:

> In traditional law the conqueror makes himself an original title to territorial sovereignty, but if he prefers, for reasons of his own, to compel the vanquished State [sic] to cede the territory he apparently gets a derivative title. Yet it is difficult to believe that the employment of the treaty form in these circumstances weakens the title. Possibly the answer is that in this case cession and conquest co-exist as alternative titles. In any case the question is almost entirely theoretical—rights attaching to the territory will continue to bind the holder whether his title be original or derivative.[78]

W.E. Hall, a scion of early modern international law,[79] also held that formal concessions were not a *sine quo non* for obtaining sovereignty over enemy territory. As he wrote in 1924, "it is understood that the simple conclusion of peace, if no express stipulation accompanies it, or in so far as express stipulations do not extend,

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[77] Coleman Phillipson, *The Termination of War and Treaties of* Peace, p. 12; as cited by Korman, p. 127.
[78] Jennings 1963, p. 19.
[79] Jennings calls him "that greatest of English writers on international law", 1963, p. 21.

vests in the two belligerents as absolute property whatever they respectively have under their actual control in the case of territory…"[80]

H. W. Halleck similarly held that "title to conquered territory is made complete by a treaty of peace, either by express provisions of cession," or even if not expressly stated, so long as the two sides sign a general peace treaty and the victor's withdrawal is not specified, then title is transferred "by the implied condition of *uti possidetis*." Even in the event no treaty were signed at all, the victor still possesses the right of conquest:

> But, a treaty is not the only mode in which the rights of conquest are confirmed and made valid…. if the state to which the conquered territory belonged be so weakened by the war as to afford no reasonable hope of ever being able to recover its lost territory, but from pride or obstinacy, it refuses to make any formal treaty of peace, although destitute of the requisite means of prolonging the contest; the conqueror is not obligated to continue the war in order to force the other party into a treaty. He may content himself with the conquest already made, and annex it to, or incorporate it with, his own territory. His title will be considered complete from the time he *proves his ability* [sic] to maintain his sovereignty over his conquest, and *manifests*, by some authoritative act, as of annexation or incorporation, his intention to retain it as a part of his own territory.[81]

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[80] As cited by De Arechaga 1983, p. 46.

[81] Halleck 1861, p. 811-12. Halleck continues: "Both of these requisites—ability to maintain and intention to retain—are necessary to complete the conquest; and the latter must be manifested by some unequivocal act, as annexation or incorporation, made by the sovereign authority of the conquering state. Without some such authoritive act, the conquered territory is held by the rights of military occupation only, and not as a complete conquest."

EVOLUTION OF THE TERRITORIAL INTEGRITY NORM

Although the territorial integrity norm was revolutionary when incorporated into the Covenant of the League of Nations, this idea, along with proposals for a world federation, had been percolating among certain circles for years, even decades. Likewise, they were inextricably connected to a web of other ideas and institutions which had been slowly evolving throughout the previous century.

Precursors

A number of ideas slowly developed over the 19th century which would come to influence the Covenant of the League of Nations and the UN Charter. The first is that it was possible, and preferable, for countries to come to an agreement on certain rules of war. As described above, between the conclusion of the Crimean War and World War I, countries entered into a series of treaties which were meant to mitigate both the "the calamities of war," and the incessant arms races which had come to place an ever larger burden on state resources.[82]

In addition to providing some degree of protection for occupied populations and their assets, these agreements also guaranteed protection for sick and wounded combatants, designated who was and was not a legitimate target, specified how prisoners of war were to be treated, and set protocol for how sides could negotiate (e.g. negotiators and their trumpeter or drummer were not to be targeted) and when sides could abridge an armistice. These conventions also restricted the types of

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[82] Declaration of St. Petersburg, 1868; and Best 1999, p. 631.

armaments that could be used, forbidding certain types of bullets (St. Petersburg Declaration, 1868), "poison or poisoned arms" (Brussels Declaration, 1874), and the "diffusion of asphyxiating or deleterious gases" (Hague Convention, 1899 Declaration IV).

Most of these agreements sought to minimize *gratuitous* cruelty.[83] However, a second, more radical approach held that humanity could no longer afford the unbearable destruction wrought to human lives and property by war. As a result, popular movements to bring an end to modern warfare were formed, beginning with William Ladd's Boston's American Peace Society in 1828. Between that time and the outbreak of WWI, a number of peace movements emerged, gaining steam and an ever widening appeal over time. These organizations became prominent enough that Woodrow Wilson himself would join the ranks of the Peace Society in 1908.

Yet, how precisely might the world end war? A number of ideas were raised in the pre-World War I era. For instance, two months before the war began, on June 17, 1914, over 100 leading American figures founded an American chapter of the League to Enforce Peace.[84] Another alternative was advanced by President Howard Taft (who was also the only President to have served as Chief Justice of the Supreme Court), who thought that mandatory arbitration treaties could prevent countries from settling their disputes via "the dread arbitrament of war." Taft even hinted that one day there

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[83] One of the earliest documents, which set the tone for many international treaties to follow, was the Union Army field manual (the "Lieber Code") published in 1863, in the midst of the American Civil War. The author enjoined solders, "Military necessity does not admit of cruelty -- that is, the infliction of suffering for the sake of suffering or for revenge, nor of maiming or wounding except in fight, nor of torture to extort confessions." Article 16. The full text is available at the ICRC website.

[84] "League to Enforce Peace is Launched," *New York Times*, June 18, 1914.

could be a world court before which disputants could bring their claims. In a speech in September 1911, Taft hoped, "the same peaceful methods of settling disputes among individual men may obtain among the nations…"[85]

The final important precursor was the rise of the normative belief that nations had an inherent and inalienable right to self-determination, an idea with foundations in Western ideas about egalitarianism and democracy.[86] The philosophy underwriting the American Declaration of Independence—that "Governments are instituted among Men, deriving their just powers from the consent of the governed"—posed a fundamental challenge to traditional rulers on two levels. On a domestic level, self-determination challenged the notion that a king's basis of authority lie in divine right or by virtue of his capacity to wield coercive power; arguing instead (ala Locke) that a king's authority lie in the implied consent of his citizenry. On an international level, the idea of an inherent and inalienable right to self-determination challenged the long-held view—epitomized by Louis XIV's "*ultima ratio regum*"—that a king's capacity to use violence was his ultimate source of authority for his right to sovereignty over newly acquired territory.

The connection between self-determination and democracy emerged almost immediately in post-revolutionary France, which foreswore the right of conquest in its Constitution of 1791: "the French nation renounces the undertaking of any war for the purpose of conquest, and… will never employ its forces against the liberty of any

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[85] "World Peace Rests Upon Us, Taft Says," *New York Times*, September 8, 1911.
[86] Jackson 1990, p. 24.

people." During the Napoleonic wars, France maintained this normative conviction and did not annex the territories it conquered.[87]

Burgeoning ideas of self-determination also had some impact on international relations even in the decades before the First World War, as expansionist powers sometimes took on more limited *de jure* roles than in the past. For instance, when Japan expanded its influence into Korea in 1905, it did not initially abolish formal Korean independence, but rather forced the Korean government to sign over its right to decide foreign policy *writ large* to the Japanese Emperor.[88] The United States also did not immediately annex territories it won from Spain in 1898, and indeed, the Democratic Party's 1912 platform called for independence for the Philippines. Similar sentiments laced President Woodrow Wilson's address to Congress regarding the Philipines, Puerto Rico, and Hawai'i on December 2, 1913, "Such territories, once regarded as mere possessions, are no longer to be selfishly exploited… We must administer them for the people who live in them with the same sense of responsibility to them as toward our own people in domestic affairs."[89]

This said, on the whole, growing notions about self-determination did not (on their own) inviolate the right of conquest. For instance, four days after their formal annexation to Prussia, inhabitants of Frankfurt demonstrated against the annexation. These protests were promptly ignored, not only by the Prussians, but also by other nations who were signatories of Treaty of Vienna. Treaty provisions that called for a

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[87] Korman 1996, pp. 121-22.
[88] Esthus 1988, p. 16.
[89] Pierce, 2003, p. 10

plebiscite among Dutch inhabitants of Schleswig following the Prussian conquest there were likewise ignored in practice by Prussia. After the 1870 French defeat to Germany, the Provisional French government waged war for another five months before acquiescing in an agreement that included the forfeiture of Alsace-Lorraine. On February 8, 1871, residents of Alsace-Lorraine voted almost unanimously against annexation to Germany, and a week later delivered a declaration to the French National Assembly which declared in advance that any concession of their territory to Germany would be "null and void," stating that unification with France was the national right of all Alsatians and Lorrainers.[90] Finally, although Japan initially maintained the fiction of Korea's *de jure* independence, that situation only lasted about five years; at which point Korea was incorporated into the Japanese Empire.

'Uti possidetis *of 1810' and the Berlin Congo Conference of 1884-85*

Among the most interesting precursors to the global territorial integrity norm were two regional attempts to forge a similar sort of norm. The first instance began as the Spanish colonies in Latin America became independent in the early 19th century. These new governments, with few resources at their disposal and lacking full control over large swathes of their own territories, were deeply concerned that outside powers would eventually come and make claims to various territories. More disconcerting still, these newly independent states were keenly aware of the virtually endless potential for border disputes amongst themselves. In order to avert these costly

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[90] Korman 1996, pp. 86-89.

conflicts altogether, states agreed at the outset that the Spanish colonial borders would be the borders for each state, even for areas that had yet to be explored or inhabited.

This principle, referred to by the Latin American countries themselves as "*uti possidetis* of 1810," first found expression in the Treaty of Bogota in 1811, signed between the United Provinces of Venezuela and the United Provinces of New Granada signed.[91] In name at least, *uti possidetis* was derived from a principle of Roman law (*uti possidetis, ita possideatis*; literally "as you possess, so you shall possess") which originally dictated that parties were obligated to abide by the *status quo* when immovable possessions (e.g. buildings) were in dispute.[92] The main difference with the Latin American norm was, in the words of one legal scholar, "the previous possession was not meant to continue merely on a provisional basis until title was determined, but constituted by itself the title for final and permanent possession."[93]

Uti possidetis was reaffirmed in several subsequent treaties, such as the Treaty of Confederation (the Lima Treaty) of 1848 and the 1894 Gamez-Bonilla Treaty between Honduras and Nicaragua.[94] On December 24, 1938, the Eighth International Conference of American States signed the "Declaration of Lima", where signatories swore "in case the peace, security or territorial integrity of any American republic is

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[91] Nelson 1973.

[92] Cukwurah, p. 112-13. It has been suggested that the proper name should have been "*ita juris est 1810*" (de Arechaga, p. 49).

[93] de Arechaga, p. 46.

[94] Text of the Lima Treaty can be found at:
<http://www.oas.org/sap/peacefund/VirtualLibrary/CongressofLima1847/Treaty/TratadoConfederacion PeruBoliviaChileEcuadorNuevaGranada.pdf>.

thus threatened by acts of any nature that may impair them, they proclaim their common concern and their determination to make effective their solidarity…"[95]

Article 21 of the Founding Charter of the Organization of American States (OAS), founded in 1948, went even further, "The territory of a State is inviolable; it may not be the object, even temporarily, of military occupation or of other measures of force taken by another State, directly or indirectly, on any grounds whatever. No territorial acquisitions or special advantages obtained either by force or by other means of coercion shall be recognized."[96]

In addition to the act of mutual recognition, these treaties simultaneously committed the signatories to resolve any future demarcation dispute via negotiations or binding third party arbitration (de Arechaga, p. 46).

So, did the *uti possidetis* norm have an effect on relations amongst Latin American states? A cursory glance at the sizable list of wars that preceded World War I might suggest otherwise:

1. Mexican-American   (1848)
2. La Plata (Argentina and Brazil)   (1852)
3. Franco-Mexican   (1867)
4. Ecuadorian-Colombian   (1863)
5. Lopez (aka Paraguay War)   (1870)
6. Naval War (Chincha Islands)   (1866)
7. First Central American   (1876)
8. War of the Pacific   (1883)

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[95] U.S. Department of State, *Publication 1983, Peace and War: United States Foreign Policy, 1931-1941* (Washington, D.C.: U.S., Government Printing Office, 1943, pp. 438-39. Found at: https://www.mtholyoke.edu/acad/intrel/interwar/lima.htm
[96] Treaty text can be found at:
<http://www.oas.org/dil/treaties_A-41_Charter_of_the_Organization_of_American_States.htm>

9. Second Central American   (1885)
10. Third Central American   (1906)
11. Fourth Central American   (1907)

In addition to the large number of wars, 10 out of 11 ended in peace accords or submission. Even the 1906 Third Central American War which ended in a cease-fire did so only because events were quickly overcome by the outbreak of the Fourth Central American War.

A closer examination of these wars, however, suggests that most of these wars grew out of disputes between former Spanish colonies and Brazil—a non-Spanish colony states—or outside powers like Spain, France, England, and the United States. Throughout the 19th century, these countries refused to recognize the norm and such border negotiations were based on the very different principle of *uti possidetis de facto*. This principle allowed for conquest of territory and was closer to the right of conquest, which was the wider prevailing international norm of the time.[97]

When it came to intra-Latin American disputes (involving only former Spanish colonies), however, *uti possidetis* seems to have been somewhat more effective. The first such dispute that resulted in fighting—the Ecuadorian-Colombian War of 1863—ended in an agreement whereby sides agreed to withdraw to the *ante-bellum* lines despite the fact that Columbia ended the fighting in possession of Equadorian territory. In addition, a majority of territorial disputes were indeed resolved via negotiations or arbitration, meaning that sides accepted the judgments of third party arbitrators.[98]

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[97] Nelson 1973, p. 270.
[98] Nelson 1973.

On the other hand, the norm was violated terribly in the negotiations that followed the Lopez War (1864-1870), whereby Paraguay ceded large amounts of land to Argentina. Similarly, the two treaties signed following the War of the Pacific (1879-1883) gave Chile both Peruvian and Bolivian territory, including the entire Bolivian coast. In addition, the norm was of limited value when states factionalized, such as when Gran Columbia split into Columbia, Venezuela, and Ecuador, because there were no previous borders. Perhaps most damning of all, effective occupation did affect arbitration decisions which altered boundaries between Argentina and Chile in 1902 and 1966.[99]

Having entered into a race for African colonies during the Nineteenth Century, European powers also instituted a similar set of rules amongst themselves regarding that continent during the Berlin Congo Conference of 1884-85. As with Latin America, European powers were concerned about fighting costly wars with one another for territory over which they had little control and had difficulties extracting revenue. In order to avoid conflict they agreed to inform each other when they had claimed a costal territory, and they were allowed to lay exclusive claims to areas in the continent's interior prior to having any effective control, so long as they had some footprint on the adjacent area's coast.[100] Thus, similar to Latin America, *de facto* control over territory was not necessary in order to claim sovereignty. Also similar to

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[99] Nelson 1973, pp. 268-73.
[100] Herbst 1989, pp. 683-84.

Latin America, the borders which emerged by World War I were rarely challenged, even after these colonies gained independence.[101]

Origins of the Territorial Integrity Norm

Even before the territorial integrity norm replaced the right of conquest, several peace treaties preceding World War I brought countries back to *antebellum* borders. For instance, the Treaty of Milano, signed in 1849 between Austria and Sardinia, reinstated the Kingdom of Sardinia's borders "as they existed before the commencement of the war in 1848."[102] Similarly, in the Treaty of Pinsaqui, which ended the Ecuadorian-Colombian War in 1863, Columbia relinquished territory it had wrested from Ecuador (after it had repulsed the latter's invasion). Following the Greco-Ottoman War of 1897, Ottoman territorial gains were largely erased due to post-conflict diplomatic intervention by Russia and other major powers. Still, one of the most interesting cases in this regard is the Treaty of Paris, which ended the Crimean War. Not only did both sides return captured territory and reinstated most of the pre-war borders (with a number of minor adjustments),[103] but the treaty also extended the benefits of the Concert system to the Ottoman Empire. In doing so, the treaty called for all sides "to respect the Independence and the Territorial Integrity of

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[101] Because African independence was achieved after the founding of the UN, these states were born into a system defined by the territorial integrity norm (unlike Latin America). Consequently, it is difficult to say conclusively that any Africa-specific norm was the source of the post-independence border stability.

[102] Article 3 of the treaty (signed August 6, 1949) reads, "The limits of the States of his Majesty the King of Sardinia on the side of the Po, and on that of the Ticino, will be such as they have been fixed by paragraphs 3, 4, and 5 of the 85th article of the final act of the Congress of Vienna of June 9, 1815; that is, such as they existed before the commencement of the war in 1848."

[103] See Articles 19-21 of the treaty.

the Ottoman Empire; Guarantee in common the strict observance of that engagement; and will, in consequence, consider any act tending to its violation as a question of general interest."[104]   However, as was often the case, these commitments were not especially binding, neither preventing the outbreak of major war only 20 years later when Russia fought the Ottomans in 1877; nor forcing other states to intervene.

On a more normative note, nascent sparks of the principle of territorial integrity did appear in international diplomacy even before the norm was enshrined in the Covenant of the League of Nations, as questions began to arise about the wisdom of "the right of conquest."[105] For example, in response to Chilean annexations of prime Bolivian territory at the end of the Pacific War (1881), American Secretary of State James G. Blaine told the Chilean government (via his envoy William Trescot), "This government feels that the exercise of the right of absolute conquest is dangerous to the best interests of all the republics of this continent; that from it are certain to spring other wars…" Blaine went beyond dispensing wisdom to suggest there would (somehow) be concrete implications, "This government also holds that between two independent nations hostilities do not, from the mere existence of war, confer the right of conquest until the failure to furnish the indemnity and guarantee which can be rightfully demanded."[106]

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[104] Article VII. Axelrod, Alan, and Charles L. Phillips. "Treaty of Paris (1856)." Encyclopedia of Historical Treaties and Alliances: From Ancient Times to the 1930s, vol. 1. New York: Facts On File, Inc., 2006. Modern World History Online. Facts On File, Inc. http://www.fofweb.com/activelink2.asp? ItemID=WE53&iPin=treaties00068&SingleRecord=True

[105] On how certain 'principles' become norms, see Wong 2008 and 2012.

[106] December 1, 1881, Secretary of State Blaine to Trescot, no. 108, pp. 147-8 in FRUS, as cited by Korman, 1996, p. 236. Trescot was eventually told to reverse his tough policy towards Chile after

Still, the outbreak of World War I and its unparalleled carnage gave great impetus to those who aspired to end war outright. Unquestionably, the single most important proponent of transforming international relations into a more "civilized" and peaceful one was American President Woodrow Wilson.[107] Almost as soon as the war had begun, Wilson began articulating many of the core principles which would make up his post-WWI "Fourteen Point" plan and the League's Covenant—which he played a prominent role in drafting. For instance, by early 1915, Wilson annunciated the following principles that he felt should guide the post-war order:

1. No nation shall ever again be permitted to acquire an inch of land by conquest.
2. There must be a recognition of the reality of equal rights between small nations and great.
3. Munitions of war must hereafter be manufactured entirely by the nations and not by private enterprise.
4. There must be an association of nations, all bound together for the protection of the integrity of each; so that any one nation breaking from this bond will bring upon herself war; that is to say punishment, automatically.[108]

These principles reflected a continuation of Wilson's previous intellectual history. For example, in his *History of the American People* (1902) Wilson took the US government to task for its "inexcusable aggression" in the Mexican War, which

Blaine was replaced by John Foster. Nickles, David Paull. *Under the Wire: How the Telegraph Changed Diplomacy*. Cambridge, MA: Harvard University Press, 2003, p. 83
[107] Wilson is a classic exemplar of what Finnemore and Sikkink (1998) call "norm entrepreneurs."
[108] Knock 1992, p. 35. This is according to Wilson's brother-in-law, Stockton Axson. However, as Knock points out, the exact timing, and whether these were even his actual words, is not exactly clear.

had "no conceivable right except that of conquest."[109] It is true that Wilson's worldview was not liberal in all regards: he held blacks and native Americans in racist contempt, balked at including a clause on racial equality in the Covenant, and believed that not all peoples were sufficiently developed to govern themselves.[110] Still, his vision of America's role in international affairs was visionary: to make it "the light which shall shine unto all generations and guide the feet of mankind to the goal of justice and liberty and peace."[111]

In general, Wilson's foreign policy displayed a remarkable commitment to abstract ideals, even if they were to be at the expense of material interests of the United States. In 1914, Wilson sided against the Huerta junta, refusing to recognize it after Huerta tried to reverse Francisco Madero following the Mexican Revolution of 1911. He held to this policy even though it came at substantial expense to American property owners and to the dismay of the British, Teddy Roosevelt, and the Republican party in general.[112] Wilson expressed similar idealism in an address at Independence Hall on July 4, 1914, calling for the United States to limit itself in its pursuit of "dollar diplomacy" (i.e. the use of American power to protect American investment abroad):

> The Department of State at Washington is constantly called upon to
> back up the commercial enterprises and the industrial enterprises of the
> United States in foreign countries… But there ought to be a limit to

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[109] Knock 1992, p. 8.
[110] Ambrosius 2002, esp. p. 23.
[111] Knock 1992, p. 20.
[112] Knock 1992, p. 25.

that… If American enterprise in foreign countries, particularly in those foreign countries which are not strong enough to resist us, takes the shape of imposing upon and exploiting the mass of the people of that country it ought to be checked and not encouraged. I am willing to get anything for an American that money and enterprise can obtain except the suppression of the rights of other men.[113]

This ideological disposition was critical in forming his personal commitment to the territorial integrity norm, even as the United States emerged as one of the most powerful nations on earth (and thus could have sought territorial gains, at least in overseas colonies). In 1916, Wilson delivered a speech to the American chapter of the League to Enforce Peace where he declared, "There is nothing that the United States wants for itself that any other nation has. We are willing, on the contrary, to limit ourselves along with them to a prescribed course of duty and respect for the rights of others which will check any selfish passion of our own, as it will check any aggressive impulse of theirs."[114]

Wilson molded this assertion of American selflessness into a cornerstone of his foreign policy speeches. In the address to Congress where he sought a declaration of war (April 2, 1917), Wilson proclaimed, "We have no selfish ends to serve. We desire no conquest, no dominion. We seek no indemnities for ourselves, no material

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[113] Woodrow Wilson, "Address at Independence Hall: 'The Meaning of Liberty,'" July 4, 1914. Posted online by Gerhard Peters and John T. Woolley, The American Presidency Project <http://www.presidency.ucsb.edu/ws/?pid=65381>.
[114] Woodrow Wilson, "Address delivered at the First Annual Assemblage of the League to Enforce Peace: 'American Principles'," May 27, 1916. The American Presidency Project <http://www.presidency.ucsb.edu/ws/?pid=65391>.

compensation for the sacrifices we shall freely make."[115] When addressing another joint session of Congress eight months later on the possibilities of peace, Wilson repeated, "What we demand in this war, therefore, is nothing peculiar to ourselves."[116] Finally, even months after the fighting had ended, Wilson told the American public, "Our gallant armies have participated in a triumph which is not marred or stained by any purpose of selfish aggression."[117]

Instead of self-interest, Wilson proclaimed in speech after speech, America aimed to forge "the ultimate peace of the world" which would secure "the rights of nations great and small and the privilege of men everywhere to choose their way of life and of obedience."[118] This world, "made safe for every peace-loving nation," would be characterized by "justice and fair dealing" instead of "force and selfish aggression."[119] As a result, small states would have a right to "the same respect for their sovereignty and for their territorial integrity that great and powerful nations expect and insist upon."[120] When fighting was finally over, Wilson declared, "Complete victory has brought us, not peace alone, but the confident promise of a new

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[115] Woodrow Wilson, "Address to a Joint Session of Congress Requesting a Declaration of War Against Germany," April 2, 1917. The American Presidency Project <http://www.presidency.ucsb.edu/ws/?pid=65366>.

[116] Woodrow Wilson, "Address to a Joint Session of Congress on the Conditions of Peace," January 8, 1918. The American Presidency Project <http://www.presidency.ucsb.edu/ws/?pid=65405>.

[117] Woodrow Wilson, "Proclamation 1496 - Thanksgiving Day, 1918," November 16, 1918. The American Presidency Project <http://www.presidency.ucsb.edu/ws/?pid=72444>.

[118] Wilson, "Address to a Joint Session of Congress Requesting a Declaration of War Against Germany," op cit.

[119] Wilson, "Address to a Joint Session of Congress on the Conditions of Peace," op cit.

[120] Wilson, "Address delivered at the First Annual Assemblage of the League to Enforce Peace," op cit.

day as well in which justice shall replace force and jealous intrigue among the nations."[121]

How would all this be achieved? Such an "ultimate peace" could be achieved if the post-war order were based on several core principles: self-determination, territorial integrity, and the creation of a "universal association of the nations" to ensure the open seas and create "a virtual guarantee of territorial integrity and political independence."[122] On January 8, 1918, Wilson addressed a Joint Session of Congress on "the Conditions of Peace," where he laid out his fourteen point plan. In this speech, Wilson called for the withdrawal of forces to pre-war borders in Russia, Belgium, Rumania, Serbia, and Montenegro and France (and included Alsace-Lorraine, which had been German since 1871). At the same time, he also called for changes to Italian and Ottoman borders and the reinstatement of Poland. Although these were not in line with the territorial integrity norm, they were in line with national identities of the peoples living in these areas, and so were aligned with his other principle of self-determination. The final point in his fourteen point plan spoke specifically to collective security as the lynchpin for avoiding future wars: "A general association of nations must be formed under specific covenants for the purpose of affording mutual guarantees of political independence and territorial integrity to great and small states alike."[123]

[121] Wilson, "Proclamation 1496 - Thanksgiving Day, 1918," op cit.
[122] Wilson, "Address delivered at the First Annual Assemblage of the League to Enforce Peace," op cit.
[123] Wilson, "Address to a Joint Session of Congress on the Conditions of Peace," op cit.

Post-World War I Developments and Failures

Given Wilson's central role in drafting the Covenant of the League of Nations, it is not surprising that these principles—especially the territorial integrity norm—were featured in the Covenant. In addition, the norm would be repeated in numerous declarations, both in global and regional fora. For instance, on December 24, 1938, the Eighth International Conference of American States concluded with the signing of the "Declaration of Lima", whereby signatories agreed that "in case the peace, security or territorial integrity of any American republic is thus threatened by acts of any nature that may impair them, they proclaim their common concern and their determination to make effective their solidarity…"[124] A decade later, the American states signed the Founding Charter of the Organization of American States (OAS). This document went substantially beyond either Article X or the UN Charter's Article 2(4), declaring categorically, "The territory of a State is inviolable; it may not be the object, even temporarily, of military occupation or of other measures of force taken by another State, directly or indirectly, on any grounds whatever."[125]

Even in the Arab world, where new borders were considered least legitimate,[126] the Pact of the League of Arab States (March 22, 1945) affirmed the norm of territorial integrity. While the document did allow for members to forge

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[124] The Declaration can be seen at: US Department of State, *Publication 1983, Peace and War: United States Foreign Policy, 1931-1941*. Washington, D.C.: U.S., Government Printing Office, 1943; pp. 438-39. Found at: <https://www.mtholyoke.edu/acad/intrel/interwar/lima.htm>

[125] Article 21. Treaty text can be found at: <http://www.oas.org/dil/treaties_A-41_Charter_of_the_Organization_of_American_States.htm>

[126] Instead, the borders were initially widely perceived to be the product of malicious colonial design aimed at frustrating the emergence on a unified Arab state.

voluntarily "closer collaboration and stronger bonds than those provided for in the present Pact," it demanded member states not threaten the "independence and sovereignty" of other members and proscribed the "recourse to force for the settlement of disputes between two or more member States." While the League could adjudicate disputes, it refused to even debate disputes that "involve the independence of a State, its sovereignty or its territorial integrity…" In the case of such attacks, the League's Council "shall determine the necessary measures to repel this aggression."[127]

Kellogg-Briand Pact of 1928 (Pact of Paris) and the Stimpson Doctrine

There were two additional diplomatic developments relevant to the development of the territorial integrity norm. The first occurred a decade after the Covenant was initialed, when 15 countries (followed by 47 others)—including all major powers—signed the Kellogg-Briand Pact of 1928 in which they pledged to end war outright. The pact's signatories officially renounced the "recourse to war" as a "solution of international controversies… [and] an instrument of national policy in their relations with one another." Instead, the signatories committed themselves to resolve disputes only by "pacific means."[128]

Even in light of the great devastation of World War I, it seems quite rash for so many countries to have quickly signed away the age-old right to wage war. Perhaps there was doubt that any commitments undertaken during this period were especially

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[127] Pact of the League of Arab States, March 22, 1945, found at <http://avalon.law.yale.edu/20th_century/arableag.asp>
[128] Kellogg-Briand Pact 1928 <http://www.yale.edu/lawweb/avalon/imt/kbpact.htm>

binding. A second potential explanation sometimes given is that the treaty allowed states to fight wars in self-defense; and some states even claimed that such self-defense was not just of one's territory, but also a country's vital national interests.[129] Because acting in one's "self-defense" can be used to justify a wide gamut of actions, such a caveat meant the use of armed force was not entirely foreclosed, and thus ratification did not appear especially limiting. In fact, when Japan invaded Manchuria in 1931 and Italy invaded Ethiopia in 1935, both justified their invasions on grounds of self-defense—even though the League of Nations eventually rejected the arguments in both cases.[130] Regardless, the question of self-defense would arise again several times, most importantly after the Six Day War between Arab states and Israel in 1967 (see below).

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The second development was the advent of the Stimpson Doctrine. Following the Japanese invasion of Manchuria (see below), the United States sought a way in which it could uphold the League's Covenant and express its displeasure, short of using force to oust Japan. On January 7, 1932, US Secretary of State Henry Stimpson told both China and Japan that the United States would consider Japan's occupation illegal, and dismiss any treaty which might arise from Japan's occupation of Chinese

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[129] The right to self-defense is not explicit in the treaty, but is found in the correspondence surrounding the Pact's negotiation. Korman 1996, p. 193; and Department of State, Office of the Historian, "Milestones: 1921-1936 - The Kellogg-Briand Pact, 1928" <http://history.state.gov/milestones/1921-1936/Kellogg>

[130] Korman 1996, p. 193.

territory. As a principle, the United States "does not intend to recognize any situation, treaty, or agreement which may be brought about by means contrary to the covenants and obligations of the Pact of Paris of August 27, 1928, to which treaty both China and Japan, as well as the United States, are parties."[131] Two months later, on March 11, 1932, the League of Nations Assembly unanimously adopted an almost identical resolution, obligating all League members to refuse recognition of any act which ran counter to the Covenant or the Pact.[132]

Non-recognition, however, did not prove especially effective. It did not force Japan out of Manchuria, nor deter Italy from conquering Ethiopia only 3 years later. Yet, because it gave states flexibility to respond and signal displeasure without having to run the risks and costs of war, the tool of non-recognition has remained a prominent aspect of the international community's response to war. Language similar to that adopted in the League resolution was incorporated in several inter-American treaties, including one on the Chaco dispute between Bolivia and Paraguy in 1932, the Anti-War Treaty of Non-Aggression (1933),[133] and the Charter of the Organization of American States (OAS) in 1948, which stated "No territorial acquisitions or special advantages obtained either by force or by other means of coercion shall be recognized."[134] More importantly, the obligation of non-recognition was included in

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[131] *FRUS, Japan, 1931-1941*, Vol. 1, p. 76, as cited by Sir Hersch Lauterpacht, Report on the Law of Treaties (1953 UN document A/CN.4/63), p. 148, as found in the Extract from the Yearbook of the International Law Commission: 1953 , Vol. 2.
[132] Langer 1947; and Sharma 1997, p. 149.
[133] Sharma 1997, p. 150.
[134] Article 21. Treaty text can be found at:
<http://www.oas.org/dil/treaties_A-41_Charter_of_the_Organization_of_American_States.htm>

the Montevideo Convention on the Rights and Duties of States (1933), and after the UN was founded, in its draft Declaration of Rights and Duties of States (1949): "Every State has the duty to refrain from recognizing any territorial acquisition by another State" that resulted from the "threat or use of force against the territorial integrity or political independence of another State, or in any other manner inconsistent with international law and order."[135] Although that declaration was never formally adopted and was not included in the UN Charter itself, the obligation of non-recognition was a central element of UNGA Resolution 2625 (1970), which declared "No territorial acquisition resulting from the threat or use of force shall be recognized as legal."[136]

In practice, this doctrine is still adhered to widely. Jordan's annexation of the West Bank (1950) and Egypt's annexation of Gaza (1958) were not formally recognized by almost any other state. Likewise, Israel's claims to the territories conquered in 1967 remain unrecognized until today (see Chapter 6). The Turkish Republic of Northern Cyprus (TRNC) and the Nagorno-Karabakh republic (and the Armenian occupation of Azerbaijani territory beyond that region) have not been recognized by any other country. Neither South Africa's annexation of Namibia (1915-1990) nor Indonesia's annexation of East Timor (1975-2001) were ever recognized (aside from Australia, who formally recognized Indonesia's annexation in order to gain oil contracts). No country recognized Iraq's annexation of Kuwait, even

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[135] This declaration was appended to UNGA Resolution 375 (IV), but that resolution did not adopt the draft, rather simply brought it to the attention of member states. The draft was subsequently tabled indefinitely by UNGA resolution 596 (VI) of December 7, 1951.

[136] UNGA Resolution 2625 (XXV). Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations UN Doc A/8028 (1970).

countries like Yemen who strongly opposed the international coalition during the 1991 Gulf War. Finally, in 2014 when Russia annexed the Crimea, only Russia's closest clients recognized the act—this despite the wide support annexation received amongst Crimea's inhabitants.

Eighty years on, and although non-recognition has generally become standard practice (spare cases involving colonial remnants, see below), it is far from clear what the practical effect of this change has been. As Sharon Korman points out, *on its own*, non-recognition simply converts "de jure conquests into de facto conquests," and "non-recognition becomes little more than a pious fiction."[137]

The Territorial Integrity Norm Falters

Despite the clear the obligation of all League members to "respect and preserve… the territorial integrity and existing political independence" of other member states, the years immediately following the Covenant's signing saw the League's mandate tested in regular fashion. In Lithuania, Soviet and Polish armies took turns invading and capturing large portions of its territory. In the Caucasus, too, the Red Army marched on Armenia and Azerbaijan in 1920, and then on Georgia in 1921.

France and Great Britain, for their part, picked apart the remnants of the vast Ottoman empire, setting up League Mandates in Iraq, Transjordan, Palestine, Syria, Lebanon, and Egypt. Although the colonial powers defended this move by cloaking it in the legitimacy of the new mandate system, which promised eventual self-

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[137] Korman 1996, p. 247.

determination, the Entente powers' sights were not limited to the periphery of the Ottoman Empire. When the fighting terminated, Britain, France, Italy, and Greece occupied much of the Anatolian Peninsula itself (including the capital of Istanbul), and formalized their territorial gains in the infamous Treaty of Sèvres (August 10, 1920). In this treaty, the Ottoman Sultanate acquiesced to having most of the remaining territory turned into zones of occupation, with Greece annexing key sections in the West, Armenians obtaining independence in the Northeast, and the Kurds gaining wide autonomy in the Southeast.

Particularly damning was the dispute between the UK and Turkey, whereby the latter was to be stripped of Mosul during the Lausanne Conference negotiations. Turkey demanded a plebiscite instead and appealed to the principles of the League, arguing that the right of conquest was no longer valid for determining boundaries. Turkish officials even quoted President Wilson to the effect that "the people of a country may not be transferred against their will from the sovereignty of one State to that of another." Lord Curzon's response on behalf of Britain demonstrates the degree to which the territorial norm was not internalized: "it is both a novel and a startling pretension that a Power which has been vanquished in war should dictate to the victors the manner in which they are to dispose of the territories which they have wrested from the former."[138]

Although admittedly, most other peace treaties which concluded World War I were signed a few months before the Covenant went into force, it is telling that they

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[138] Korman, 1996, pp. 156-57

were only partially negotiated with the Covenant's principles in mind. In the negotiations regarding the Versailles Treaty, France demanded to annex (though did not receive) not just Alsace-Lorraine, but Germany's Saar Valley as well in lieu of compensation for damage suffered during the war. France also sought to turn the Rhineland into a buffer zone. Italy did receive sovereignty over South Tyrol's ethnic German inhabitants as part of the Treaty of Saint Germain-en-Laye. Likewise, while the victors pointed to self-determination when dealing with conquered territories of Germany, Austria, Hungary, and the Ottoman Empire, the same principle was never applied to the victorious states, such as Romania and Serbia, who possessed Bulgarian populations.[139] Most relevant for this chapter, however, in the agreements signed post-World War I, the guiding principle of self-determination generally trumped the principle of territorial integrity. While the conflict between these two norms has continued ever since, never since has self-determination so dominated inter-state peacemaking at the expense of territorial integrity.

During the 1930s, the territorial integrity norm faced a far more fundamental threat from the actions of three rising powers. In 1931, Japan's Kwantung Army mounted a large-scale military attack on Chinese cities in Manchuria.[140] After occupying large swaths of territory, Japan created the puppet state of Manchukuo, which would last until the end of World War II. In response, the League of Nations condemned the move, and following the Stimson Doctrine, most members made it clear they would never formally recognize the new *status quo*. Japan, in turn,

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[139] Korman, 1996, pp. 144-55.
[140] Yoshihashi 1963.

responded by quitting the League altogether. In October of 1935, Italy invaded Ethiopia, by then an independent state and member of the League of Nations. Italy was condemned for its invasion and for its use of chemical weapons, but as with Manchuria, the League's actions were insufficient to end Italy's occupation of Ethiopia. Following the Japanese and Italian lead, Germany expanded into Austria, and with international acquiescence, into the Sudetenland. However, when Germany invaded Poland, it would trigger World War II.

World War II

Even before the United States joined the war against Germany and her allies, Franklin D. Roosevelt and British Prime Minister Winston Churchill issued a joint statement following their meeting on August 14, 1941. This statement, which would become known as the Atlantic Charter, became the ideological basis for the Allied coalition, and was frequently referred to in the documents and statements which followed. The Atlantic Charter itself borrowed on familiar themes, a hope for "a better future for the world" that might be achieved if states adhered to several principles, principles they pledged would guide their actions during the war:

> First, their countries seek no aggrandizement, territorial or other;
>
> Second, they desire to see no territorial changes that do not accord with the freely expressed wishes of the peoples concerned;
>
> Third, they respect the right of all peoples to choose the form of government under which they will live; and they wish to see sovereign

rights and self government restored to those who have been forcibly deprived of them;

…

Sixth, after the final destruction of the Nazi tyranny, they hope to see established a peace which will afford to all nations the means of dwelling in safety within their own boundaries, and which will afford assurance that all the men in all lands may live out their lives in freedom from fear and want;

…

Eighth, they believe that all of the nations of the world, for realistic as well as spiritual reasons must come to the abandonment of the use of force.…[141]

When the Soviets joined the Allied side, they also pledged adherence to the Atlantic charter. This pledge had concrete implications in Iran, for instance, as throughout World War II, British and Soviet forces operated there in large numbers. In January 1942, the USSR and UK signed the Tripartite Treaty with Iran, which included a stipulation (Article 5) that all allied forces would withdraw from Iranian territory within six months of the war's end (discussed below). The commitment to Iran's independence and territorial integrity was reaffirmed explicitly during the first face-to-face meeting of the "Big Three" (Stalin, Roosevelt, and Churchill) in 1943 in Tehran, where among the agreements signed was the "Declaration of the Three Powers Regarding Iran." "With respect to the post-war period," the governments declared, they shared a mutual "desire for the maintenance of the independence,

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[141] Document can be found at: <http://avalon.law.yale.edu/wwii/atlantic.asp>

sovereignty and territorial integrity of Iran… in accordance with the principles of the Atlantic Charter, to which all four Governments have subscribed."[142]

In terms of how the war ended, as mentioned at the outset of this chapter, there were several major differences between this war and World War I. One was that the United States ratified all agreements and retained a pre-eminent role in enforcing the UN Charter (see below). A second was that the terms of the peace treaties actually followed the Allies' declared principles regarding territorial integrity much more closely than had the peace treaties following World War I. Unlike World War I, the victorious powers did not seek to split off various regions under the guise of self-determination for ethnic minorities. Although there were minor alterations made to Germany's borders, they were very similar to its borders from December 31, 1937. Likewise, when Italy signed its peace treaty with the Allies on February 10, 1947, the agreement generally restored pre-war borders (as of January 1, 1938). It did, however, strip Italy of its Ethiopian and Albanian conquests—which were in contravention of the Covenant of the League of Nations. The only substantial border modifications were slight shifts along the French border and transfer of sovereignty of a number of islands to Greece and Albania.[143] In the peace treaty signed in San Francisco in 1951, Japan's pre-war borders (that is, pre-invasion of China in the 1930s) were

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[142] Declaration of the Three Powers Regarding Iran, December 1, 1943 (Separate from the other declarations) The document may be found at: <http://historicalresources.wordpress.com/tag/winston-s-churchill/>
[143] EHTA, pp. 622-24.

maintained.[144] Indeed, the only significant Allied territorial gains—American control over a number of strategic Pacific islands and Soviet annexation of parts of eastern Poland—pale in comparison to the spoils following World War I.[145]

Similarly, when in early 1946 the newly formed UN began debating the continued presences of British and French troops in Lebanon and Syria, American Secretary of State Byrnes told an audience that although the Security Council did not agree on a resolution, "no one questioned the general proposition that no State has the right to maintain its troops on the territory of another independence State without its consent, nor the application of this proposition to the pending case."[146] Consequently, while the post-World War I order saw the map of the world transformed (especially given the dissolution of the Hapsburg, Ottoman, German, and Russian Empires), the map post-World War II generally closely resembled the map before the war began.

Soviet Expansionism: Poland, Iran, and Turkey

The Soviet Union is emblematic of how those countries whose material interests strongly influenced where they stood regarding the territorial integrity norm.

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[144] EHTA, pp. 625-627. For almost 70 years, Japan and the USSR / Russia have still not signed a peace treaty to conclude World War II and to resolve their territorial disputes over South Sakhlain and the Kurile Islands. These areas were transferred to Japan as part of the Treaty of Portsmouth that ended the 1904 War, but since World War II, have been claimed by both. Although the Yalta Agreement stipulated that they would become Soviet, the peace treaty signed between the US and Japan did not give the Soviets control, leading them to refuse to sign the agreement.

[145] Evidence that the territorial integrity norm was still not fully internalized on the domestic level at this time is provided by Korman, who points to a Gallup Poll of May 23, 1944, where a majority of Americans agreed the United States deserved these Pacific islands as recompense for blood spilt in the Pacific. Korman, p. 165. EHTA, pp. 611-15, 681-685; Korman, pp. 166, 170-77.

[146] In fact, the UK and France agreed to withdraw even without the UNSC having passed a resolution to that effect. "Text of Byrnes Talk Outlining America's Position on Disputed World Problems," *New York Times*, March 1, 1946.

When the USSR was weak, the Communist party was a leading norm entrepreneur. For instance, one of the first steps taking by the Provisional Government immediately following the Russian Revolution (April 10, 1917) was to announce "Free Russia does not aim at dominating other nations, at depriving them of their national patrimony, or at occupying by force foreign territories; … its object is to establish a durable peace on the basis of the rights of nations to decide their own destiny."[147]

Soon after the Bolshevik coup of 1917, the Second Congress of Soviets voted in favor of Vladimir Lenin's "Decree on Peace," which called for a "just and lasting peace… without annexations… and without indemnities."[148] In 1921, the Soviet Union also signed separate bilateral treaties of friendship with Iran, Turkey, and Afghanistan; treaties which were bolstered by further bilateral agreements between 1925 and 1927. In the decade that followed, the USSR signed several similar treaties of non-aggression with Poland, France, Finland, Latvia and Estonia.[149]

The text of these treaties were the epitome of the post-World War I *zeitgeist*. In its treaty with Iran, for instance, the Soviets "abandoned unconditionally" and "[renounced] the tyrannical policy carried out by the Colonizing Governments of Russia… which infringed upon the independence of the countries of Asia…" The Soviets further pledged their "refusal to participate in any action which might destroy or weaken Persian sovereignty." The treaty even went so far as to give up territories

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[147] Korman 1996, p. 136
[148] Schild 1995, p. 49.
[149] Sandache 2012.

ceded to Russia by Persia in 1893 which were beyond the "Russo-Persian frontiers, as drawn by the Frontier Commission in 1881."[150]

However, the Soviets quickly reversed themselves regarding the Baltics and Caucasus, using military force to recapture (with varying degrees of success) both in 1920-21. Then, in 1939, the Soviets invaded Finland. Despite commitments undertaken in its two treaties with Turkey (1921 and 1925), when the Soviets entered negotiations to join the Axis in November 1940, one of their demands was to revise the Montreux Agreement of 1936. Stalin sought both free Soviet naval passage through the Bosporus and the establishment of Soviet military and naval bases along the Turkish Straits. Not only did Hitler reject the demands, but he leaked them to Turkey a year later.[151]

Similarly, despite the Soviet commitments forgoing territorial aggrandizement in the Atlantic Charter, at Yalta Stalin demanded that the USSR be given the parts of Poland it had occupied following the Nazi-Soviet Pact of 1939.[152] Furthermore, in exchange for joining in the fight against the Japanese, the Soviets sought and received South Sakhlain, the Kurile Islands, and other non-territorial concessions.[153]

This said, in most cases where the Soviet Union sought to dominate its neighbors after World War II, it did not attempt to annex them, but sought instead to set up puppet regimes which would oblige Moscow. This was obviously true of

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[150] Treaty of Friendship between Persia and the Russian Socialist Federal Soviet Republic, signed February 26, 1921.
[151] Hale 2000, pp. 85-6; and Gurbuz 2002, p. 31.
[152] Maddox 1987, p. 27.
[153] Department of State, Office of the Historian, "Milestones: 1937-1945 -- The Yalta Conference" <http://history.state.gov/milestones/1937-1945/YaltaConf>

Eastern Europe, but also in countries much further from the border, such as North Korea. These puppet regimes themselves ruled by leaning on an extensive domestic security and intelligence apparatus and a total denial of civil rights.[154]

The Soviets test the waters: Iran and Turkey (1940-1947)

As previously mentioned, the Tripartite Treaty with Iran (1942) and the "Declaration of the Three Powers Regarding Iran" (1943) both obligated all allied forces to withdraw from Iranian territory within six months of the war's end. When Japan formally surrendered on September 2, 1945, this deadline for withdrawal was triggered. Accordingly, America withdrew its forces by year's end, while the British announced they would be out by the March 1 deadline. The Soviets, on the other hand, demurred. Instead, the USSR pursued two policies: oil exploration in the northern Azerbaijani and Kurdish provinces where Soviet forces were concentrated, and intense separatist agitation in those provinces with the goal of creating Soviet proxies. Soviet documents from the time suggest that initially their goal for these provinces was wide autonomy with "broad powers,"[155] though it is unclear whether the Soviets would eventually have pushed for them to become independent. To achieve its goals, the USSR expended great efforts to install puppet leaders in the provincial governments and created pro-Soviet labor organizations and media outlets. When the central

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[154] Maddox 1987, p. 29.

[155] See Article IV of "Secret Soviet Instructions on Measures to Carry out Special Assignments throughout Southern Azerbaijan and the Northern Provinces of Iran in an attempt to set the basis for a separatist movement in Northern Iran," July 14, 1945, Wilson Center Digital Archive, GAPPOD AzR, f. 1, op. 89, d. 90, ll. 9-15. Obtained by Jamil Hasanli. Translated for the Cold War International History Project (CWIHP) by Gary Goldberg. <http://digitalarchive.wilsoncenter.org/document/112018>

government in Tehran attempted to re-assert its authority in December 1945, the Soviet military physically prevented it from doing so.[156]

Finally, on March 1, Moscow Radio reported that the Kremlin had informed Iran's prime minister that "Soviet troops would begin their evacuation of the areas of Meshed, Shahrud and Samnan, in Eastern Iran. The Soviet troops in other areas of Iran will remain there pending clarification of the situation."[157] Iran then told American officials that in this meeting, Stalin had demanded oil concessions and autonomy for Azerbaijan (over which, Stalin said, Soviet "honor" was at stake).[158]

To the West, the USSR was engaged in similar strategy regarding Turkey. Moscow refused to renew the Treaty of Friendship of 1925, saying it would only renew the agreement should Turkey agree to its demands, which included a revision to the Montreux Agreement—the Soviets demanded a "joint defense" of the Bosporus and Dardanelles—and that Turkey give up two provinces (Kars and Ardahan) bordering Soviet Georgia.[159]

In order to resist Soviet intimidation, Turkey first sought to revive its Mutual Assistance Treaty with France and Britain. Signed in October 1939, the treaty

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[156] FRUS 1946, Iran. 891.00/1-146: Telegram (top secret). The Ambassador in Iran (Murray) to the Secretary of State, Tehran, January 1, 1946; and 891.00/1-946: Telegram (secret). The Vice Consul at Tabriz (Rossow) to the Secretary of State, Tabriz, January 9, 1946. See also Pollack 2004 and Rubin 1980.

[157] Keesing's Record of World Events (formerly Keesing's Contemporary Archives), Volume VI (1946), Feb, 1946 IRAN, p. 7757. http://keesingsarchive.recordofworldevents.com/7757n01irn/

[158] Samii 2005. Stalin also argued that the Iranian delegate to the Paris Peace conference of 1919—who had sought to annex Russian territory—had now become a senior figure in the Iranian government, and due to this potentially threatening figure's prominence, the Soviets had to remain in Iran. FRUS 1946, Iran, p. 50.

[159] Brown 2008; Kirisci 2001, p. 130; Çelik 1999, p. xi; and Kushner 1993, p. 212.

stipulated France and Britain would come to Turkey's defense should it be attacked by any power (including Russia).[160] As with Iran, Britain originally refused Turkey's request out of a fear of provoking the Soviets. Britain would eventually change its mind; however, by then it was also clear to all involved that only the United States was capable of protecting Turkey from the Soviets.[161]

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Until the end of World War II, American and British policymakers were still hopeful that there could be cooperation among the great powers in maintaining global order. As a result, both were initially hesitant to take a confrontational stand on the Soviet demands on any of these issues. In addition to acquiescing to Soviet demands in Poland at Yalta, they both initially responded to Soviet demands vis-à-vis Turkey and Iran by encouraging Turkey and Iran to resolve their differences with the Soviets bilaterally. Even as late as January 1946, senior American state department officials still balked when Iran's ambassador requested American support for its appeal to the newly created United Nations General Assembly. The most they could promise was that America intended "to carry out the commitments which it made when it signed

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[160] However, Turkey's steadfast neutrality during the war meant it had equivocated on its own promise to side with the Allies if war should break out. Gurbuz 2002, p. 27.

[161] This was also the analysis of the British and the American embassy in Moscow as well, who both concluded that an American assurance was a far greater deterrent for the Soviets than Turkey's own military power. Gurbuz 2002, p. 174. See also the telegram from US Representative Harriman to the head of the Economic Cooperation Administration, January 6, 1949 in *FRUS*, 1949, Vol. VI, 1639-40.

the Charter of the United Nations, and that it intends fully to support the principles of the Charter in any matters which may be presented to the UNO."[162]

At the same time, beginning with the disputed implementation of the Yalta Agreement in the Spring of 1945 (i.e. before the war even concluded), some senior American and British officials were concluding that only a tough US-UK response would moderate Soviet policy. In several long cables and in an extended discussion with newly sworn-in President Truman, American Ambassador to the Soviet Union W. Averell Harriman explained his great concern about Soviet goals, outlook, and *modus operandi*. On April 4, 1945 (a year before George Kennan's infamous "long telegram"), Harriman wrote Secretary of State Edward Stettinius, Jr. in no uncertain terms: "we now have ample proof that the Soviet Government views all matters from the standpoint of their own selfish interests." Namely, the Soviets were trying to promote their influence in Europe and promote Communism by portraying desperation in American controlled areas versus stability and economic recovery in areas under their control. While America, Harriman wrote, sought the benefit of the inhabitants, Soviet designs were far more nefarious:

> The Soviet Union and the minority governments that the Soviets are forcing on the people of eastern Europe have an entirely different objective. We must clearly recognize that the Soviet program is the establishment of totalitarianism, ending personal liberty and democracy as we know and respect it. In addition the Soviet

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[162] FRUS 1946, Iran. 891.00/1-246: Telegram (secret). The Secretary of State to the Ambassador in Iran (Murray), Washington, January 2, 1946. See also Stevenson's memo of Jan. 24 where he relays a conversation with Sec. of State Byrnes who urged Iran to fully exhaust bilateral negotiations instead of bringing the matter to the UN. FRUS 1946, Iran. 501BC/1-146. Memorandum by the Senior Adviser to the US Delegation at the United Nations (Stevenson) USSC 46/30, London, January 24, 1946.

Government is attempting to penetrate through the Communist parties supported by it the countries of western Europe with the hope of expanding Soviet influence in the internal and external affairs of these countries.

…The Soviet Government will end this war with the largest gold reserve of any country except the United States, will have large quantities of Lend-Lease material and equipment not used or worn out in the war with which to assist their reconstruction, will ruthlessly strip the enemy countries they have occupied of everything they can move, will control the foreign trade of countries under their domination as far as practicable to the benefit of the Soviet Union, will use political and economic pressure on other countries including South America to force trade arrangements to their own advantage and at the same time they will demand from us every form of aid and assistance which they think they can get from us while using our assistance to promote their political aims to our disadvantage in other parts of the world.

Harriman concluded, "Unless we are ready to live in a world dominated largely by Soviet influence," the United States must:

use our economic power to assist those countries that are naturally friendly to our concepts in so far as we can possibly do so…. Our policy toward the Soviet Union should, of course, continue to be based on our earnest desire for the development of friendly relations and cooperation both political and economic, but always on a quid pro quo basis. This means tying our economic assistance directly into our political problems with the Soviet Union.[163]

In the debate that ensued, Secretary of War Stimpson remained reticent to confront the Soviets, but Secretary of the Navy James Forrestal concurred with

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[163] FRUS 1945, Soviet Union. 840.50/4-445: Telegram, The Ambassador in the Soviet Union (Harriman) to the Secretary of State, Moscow, April 4, 1945. Two days later, Harriman sent another telegram to Washington with a similar diagnosis and prognosis. See FRUS 1945, Soviet Union. 711.61/4-645: Telegram, The Ambassador in the Soviet Union (Harriman) to the Secretary of State, Moscow, April 6, 1945.

Harriman, saying the Soviets were following the same policies in Bulgaria and Romania as they had in Poland. At the end of a discussion with his top advisors, Truman adopted Harriman's position. He promised to make his points regarding Poland "in words of one syllable" in his forthcoming meeting with Molotov. Truman's April 23 meeting with Molotov indeed reflected America's conflicted policy: Truman began by reaffirming his commitment to Roosevelt's policies and emphasizing his hope for cooperation. Yet, when Molotov claimed that the Poles were undermining the Soviet Army, Truman lost all diplomatic pretense and rebuked the Soviets harshly for failing to live up to their obligations undertaken at Yalta to ensure a democratic and representative Polish government.[164]

Over the next twelve months, the Truman Administration became increasingly convinced of the Soviets' malevolent intentions. As a result, American officials began to believe that failure to confront the Soviets would undermine America's own strategic interests, their allies' national security, and even the nascent United Nations (ironically, previously a central reason behind the appeasement policy was to elicit Soviet cooperation in forming the UN). In September 1945, State Department sent an initial warning to President Truman that should Turkey relinquish control over the Straits or even neutralize them, it would significantly harm American interests, and could even set a precedent for the Panama or Suez Canals. In which case, should

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[164] McCullough 1993, pp. 458-61; and Brown 1994, pp. 22. In his autobiography, Truman infamously claims that Molotov objected to Truman's treatment, saying "I've never been talked to like that in my life." To which, in Hollywood fashion, Truman claims he replied: "Carry out your agreements and you won't get talked to like that." However, as McCullough points out, Truman's advisor and interpreter for this conversation (Charles Bohlen) recounts the dialogue with far less panache. In general, as Robert Maddox (1987) argues, caution is advised when reading Truman's autobiography.

Turkey attempt to resist Soviet pressure, the United States had to consider whether it would give military aid in the event of a Soviet attack.[165]

By early January 1946, it appears Truman was ready for a confrontation. In a letter to the new Secretary of State, James Byrnes, Truman wrote, "I think we ought to protest with all the vigor of which we are capable [against] the Russian program in Iran. There is no justification for it. It is a parallel to the program of Russia in Latvia, Estonia and Lithuania. It is also in line with the high handed and arbitrary manner in which Russia acted in Poland." The Soviets, Truman was convinced, would not stop in Iran either. "There isn't a doubt in my mind that Russia intends an invasion of Turkey and the seizure of the Black Sea Straits to the Mediterranean." While Truman felt that in Potsdam he had been faced with a *fait accompli* regarding Poland, Truman thought America's position in Iran and Turkey allowed for a different policy, "I do not think we should play compromise any longer…. I'm tired of babying the Soviets."[166]

American policy started shifting course. On the eve of the March 1 deadline in Iran, Byrnes gave a public address where he restated America's desire for continued alliance with the Soviet Union, arguing that ideological differences were not an inherent barrier to cooperation. "In this world," Byrnes assuaged, "there is room for many people with varying views and many governments with varying systems." However, Byrnes continued, "in the interest of world peace… the United States intends to defend the [UN] Charter." Reminding that the Charter forbade the use or

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[165] Gurbuz, *An Overview of Turkish-American Relations*, p. 82.
[166] Harry S. Truman, Letter to James Byrnes, January 05, 1946, Harry S. Truman, *Memoirs: Years of Decision* Vol. 1 (Garden City, New York: Doubleday & Co., 1955), p. 522.

threat of force except in self-defense or to defend international law, Byrnes stated, "We will not and we cannot stand aloof if force or the threat of force is used contrary to the… Charter." Hinting to the situation in Iran, "We must not unduly prolong the making of peace and continue to impose our troops upon small and impoverished states."[167] In March, following the Soviets' announcement that they would be keeping their forces in Iran indefinitely, the United States put three divisions in Austria on alert.[168] It appears the Soviets took this threat seriously, as only three weeks after their initial announcement, they then told the UN Security Council that they would be withdrawing all troops from Iranian soil.

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There are many scholars who dismiss claims that America's stance pushed the Soviets out of Iran, arguing instead that the Soviets were focused solely on oil concessions. Once Iranian Prime Minister told them that such a deal could not be concluded so long as Soviet forces remained on Iranian soil, these scholars claim, the Soviets withdrew. It is difficult to believe, however, that after months of hostile activity (including increasing the number of troops instead of withdrawing them), that the Soviets suddenly changed their mind and decided they did not need a military presence to achieve their objectives, and that the American move to put three divisions

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[167] "Text of Byrnes Talk Outlining America's Position on Disputed World Problems," *New York Times*, March 1, 1946.
[168] Pollack 2004, p. 440.

in Austria on alert only a few weeks before had no part in that (Pollack 2004). It is particularly unconvincing given the Soviet *modus operandi* in Eastern Europe that the Soviets would suddenly trust the Iranian prime minister's non-credible promises that the Mejlis (parliament) would reverse itself and approve an oil concession *seven months* after Soviet forces left (and, indeed, this concession was not approved). Even less believable is that the Soviets believed Iran would allow the rebellious Azerbaijani and Kurdish provinces to maintain their autonomy in open defiance of the central government once the Soviet military was no longer there to stop them. Indeed, by the end of 1946, Iran's military had crushed both rebellions, with the rebel leaders executed, exiled, or imprisoned.[169] As Pollack points out, the Iranians on their own were entirely powerless to force the Soviets out, and so the Soviets could have simply stayed, taken whatever oil they found (a step Soviet engineers believed was necessary)[170] and propped up the autonomous Azerbaijan and Kurdistan. As Pollack puts it:

> So the critical question that is unanswered by the alternative theory is 'If all the Russians wanted was the oil, why did they not simply stay and annex the territory?' In the absence of dispositive evidence from the Soviet archives, the most simple and logical answer to that question is that they were afraid that if they did so it would trigger a war with the United States, and so they opted for the less certain, but less risky (in terms of provoking a war with the United States) course

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[169] Shaffer 2002.
[170] See the State Defense Committee [GOKO], "Decree of the USSR State Defense Committee No 9168 SS Regarding Geological Prospecting Work for Oil in Northern Iran," No. 9168SS (top secret), June 21, 1945, Moscow. Wilson Center Digital Archive: <http://digitalarchive.wilsoncenter.org/document/113099>

of action of striking a deal with Qavam and then trying to bolster Qavam's position to make the deal stick.[171]

A similar chain of events took place in Turkey. In April 1946, Washington sent the battleship *USS Missouri* to Istanbul, officially in order to return the body of Turkish Ambassador to the United States, Münir Ertegün. Unofficially, however, the ship was meant to send a signal to the USSR and Turkey that the United States supported the latter in its conflict with the Soviets.[172]

On August 7, 1946, the Soviet Union repeated its demands for joint administration of the Straits. In internal discussions, US policymakers now came to see the Soviet threat to Turkey as both imminent and extremely threatening to American interests. As the Departments of State, War, and Navy concluded in a critical joint memorandum:

> the primary objective of the Soviet Union is to obtain control of Turkey. We believe that if the Soviet Union succeeds in introducing into Turkey armed forces with the ostensible purpose of enforcing the joint control of the Straits, the Soviet Union will use these forces in order to obtain control over Turkey. If the Soviet Union succeeds in its objective… it will be extremely difficult, if not impossible, to prevent the Soviet Union from obtaining control over Greece and the whole Near and Middle East.… The only thing which will deter the Russians will be the conviction that the United States is prepared, if necessary, to meet aggression with force of arms.[173]

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[171] Pollack 2004, p. 440, note 35.
[172] Normally, cruisers were dispatched for this purpose, and so sending a major battleship was a clear signal. Gurbuz 2002, pp. 94-5. Another naval group visited Istanbul in November 1946, in what was clearly a second such American gesture. Tamkoç 1976, p. 219.
[173] *FRUS*, 1946, Vol. VII, p. 840 as cited by Gurbuz 2002, p. 101.

The American response to the Soviet demands was firm, stating Turkey would retain its rights over the Straits, and that any infraction would be debated at the UN.[174] The resolute stand of the United States and Britain on the side of Turkey against the Soviet claims regarding the Straits and the two provinces forced the Soviet Union to back down from its demands. After September 1946, the Soviets never officially repeated their demands, and on May 30, 1953 (only two months after Stalin's death), the Soviets officially renounced their claims.[175] It seems that the Soviets themselves understood the damage their demands had done. As Nikita Khrushchev himself said, it was Beria and Stalin who had "succeeded in frightening the Turks right into the open arms of the Americans."[176]

While historians may never decisively conclude what actually forced the Soviets to back down in Iran and Turkey, what actually mattered for the territorial integrity norm is that other countries perceived that what had forced the Soviets to back down was that America stood firm in its willingness to protect the territorial integrity of all states.

Finally, in terms of considering the strength of the territorial integrity norm at this moment, it is also worth noting that the Soviets never once argued that they had a right to annex part of Iran. Their initial response in the UN simply was to argue that Iran falsely represented the facts in the case. The Soviet representative claimed the Soviet military was in no way interfering in Iran's domestic conflict (which the

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[174] Füsun Türkmen, "Turkey and the Korean War"
[175] Váli 1971, p. 78; and Gurbuz 2002, p. 105-6.
[176] As quoted in Hale, *Turkish Foreign Policy*, p. 120.

Soviets knew was patently false), and that it had no role in prompting the local uprising (also false), which they claimed was purely a local reaction to years of Persian repression of Iran's ethnic minorities.[177]

Beyond Direct Superpower Confrontation

In the years immediately following World War II, three major interstate wars broke out that led to UNSC intervention: Pakistan-India in 1947, Arab-Israel in 1948, and Korea in 1950. Looking at these conflicts, one can discern several developments related to the territorial integrity norm.

The first development was the willingness—at least in instances where the stakes would impact the emerging Cold War—to follow through with military force in order to repel invasion and uphold collective security, as Wilson originally envisioned in the League of Nations. On June 25, 1950, North Korea invaded South Korea (ROK) in an attempt to unify the peninsula by force. The UNSC response was particularly swift and decisive. On the day of the invasion, the UNSC passed a resolution demanding North Korea withdraw to the 38th Parallel (which marked the pre-invasion border). Two days later, the UNSC passed resolution 83, which requested UN members to provide military assistance to help South Korea repel the armed attack— the first time the UN would authorize armed force to intervene in an international conflict.

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[177] Head of the Delegation of the Soviet Union at the United Nations (Vyshinsky) to the President of the Security Council (Makin), London, January 24, 1946; found in FRUS 1946, Iran, pp. 309-12.

Twenty-one countries eventually sent forces to Korea. While these countries were worried specifically about the Soviet threat, they also realized that these core norms of the UN (namely, the right of all states to independence and territorial integrity) were at stake. As Turkey's Prime Minister Menderes told an interviewer, "For the UN not to take action against aggression that takes place, wherever it occurs, will open the door to new violations and will be considered as a reward to the recent aggression." As a result, Menderes argued that "It is the duty of member states to answer the call for help of a country that has been attacked, from wherever [that call] may come."[178] Turkey itself would send a full brigade (4,500 solders) to defend South Korea.[179]

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The second major development in this post-war period, as Richard Baxter crisply put it, is that "the conclusion of an agreement for the suspension of hostilities reflects not so much a free decision by the parties that they will cease to exercise a right or privilege" as historically was the case, as it marked "an acceptance by them of the obligations of the Charter not to resort to the use of force."[180] This is critical because (as noted above) until the Covenant was signed, when sides signed armistice

[178] Adnan Menderes, interview with Kingsbury Smith, General Manager, American International News Service. [Document No. 030-01-5-26-29, undated, archived in 1954], as cited in Brown 2008.

[179] Brown 2008. Turkey's primary goal in Korea—and the reason it sent more troops than most other nations—was to prove its worth as an ally in order to gain entry into NATO.

[180] RR Baxter, "Armistices and Other Forms of Suspension of Hostilities", p. 384, as quoted by Bailey, 1982 (Vol. 1), p. 2.

agreements, victors could legitimately annex territory they had won—even if losers did not officially consent to the transfer of title.[181] Since World War II, armistice agreements often included phrasing specifying that the agreement does not have legal implications regarding sovereignty, and that its only significance is military, i.e. that sides agree to stop fighting (usually as demanded by the UN Security Council).[182]

For instance, at the conclusion of their war over Jammu and Kashmir in 1947-48, India and Pakistan signed a cease-fire agreement establishing lines of control (in compliance with demands made in UNSC resolutions). In the very first article of the armistice agreement, the sides refer to a letter from the UN Commission for India and Pakistan, which tried to lower the stakes of the negotiations: "The meetings will be for military purposes; political issues will not be considered," and that "They will be conducted, without prejudice to negotiations concerning the Truce Agreement."[183]

The armistice agreements arising from the Arab-Israeli conflict were far more explicit. In the Armistice Agreement Between Syria and Israel (July 20, 1949), for instance, the sides decreed (Article 2.2) that "no provision of this Agreement shall in any way prejudice the rights, claims and positions of either Party hereto in the ultimate peaceful settlement of the Palestine question, the provision of this Agreement being

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[181] Korman, pp. 148-49, points out that the proposed Allied occupation of the Rhineland following World War I was the first time that conquest would be followed by a long-term non-sovereign military occupation.
[182] Bailey 1982 (Vol. 1), p. 31.
[183] Article A(2) and A(3). The Karachi Agreement can be found at <http://peacemaker.un.org/sites/peacemaker.un.org/files/IN%20PK_490729_%20Karachi%20Agreement.pdf>

dictated exclusively by military, and not political, considerations."[184] Just in case doubts remained, Article 5(1) reiterates the point: "…the Armistice Demarcation Line… [and] Demilitarized Zone are not to be interpreted as having any relation whatsoever to ultimate territorial arrangements affecting the two Parties to this Agreement." Finally, for symbolic effect, the Arab delegations at the signing ceremonies for all the post-1948 Arab-Israel agreements were headed by uniformed military officials.[185]

Interestingly, however, the international boundary was privileged in these agreements. The previous boundary between Egypt and Mandate Palestine was demarcated as the new Israel-Egyptian armistice line in 1949.[186] Likewise, in the Israel-Syria agreement, the sides agreed [in Article 5(3)] that the "The Armistice Demarcation Line shall follow a line midway between the existing truce lines, as certified by the United Nations Truce Supervision Organization for the Israeli and Syrian forces. Where the existing truce lines run along the international boundary between Syria and Palestine, the Armistice Demarcation Line shall follow the boundary line." Areas where the armistice line did not correspond with the

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[184] "The Armistice Agreement Between Syria and Israel, July 20, 1949" in Itamar Rabinovich and Jehuda Reinharz, eds. *Israel in the Middle East: Documents and Readings on Society, Politics, and Foreign Relations, Pre-1948 to the Present.* 2nd edition. Waltham, MA: Brandeis University Press, 2008. All further quotations from this document are from this source.
    Almost identical language appears in Article 2(2) of the Israel-Jordan General Armistice Agreement of April 3, 1949 as well (Blum 2007).
[185] Blum 2007, p. 29. Blum also cites Jordanian Ambassador to the UN El-Farra who told the Security Council right before the Six-Day War: "There is an Armistice Agreement. The agreement did not fix boundaries; […] Thus I know of no boundary; I know of a situation frozen by an Armistice Agreement."
[186] Blum 2007, p. 35, note 20. He adds that the Israel-Egypt peace treaty of 1979 made this same line the "The permanent boundary between Egypt and Israel…"

international boundary were to become "Demilitarized Zone from which the armed forces of both Parties shall be totally excluded, and in which no activities by military or paramilitary forces shall be permitted…."[Article 5(5)]

Though it did not belabor the point in the same way Arab-Israeli armistices did, the armistice ending the Korean War also took care to mention that "conditions and terms are intended to be purely military in character," and that "the objective of establishing an armistice" was a "complete cessation of hostilities" in Korea, which would hold "until a final peaceful settlement is achieved."[187] Peace negotiations to settle "the questions of the withdrawal of all foreign forces from Korea, the peaceful settlement of the Korean question, etc." were to begin within three months of the armistice. Of course, as was the case in the other conflicts, such a peacefully negotiated settlement was never achieved.

A New Recipe for UN Intervention

In the three decades following its establishment, the UN slowly developed a set standard for how it should intervene in interstate conflicts, employing specific phrases to advance agreed upon principles, particularly related to the territorial integrity norm. Many of the formulations which would be repeated in UN resolutions emerged following Israel's victory over its Arab neighbors during the Six-Day War in 1967. At the conclusion of that war, Israel occupied all of Jerusalem, the West Bank (previously occupied by Jordan since 1948), the Gaza Strip (previously occupied by Egypt since

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[187] Korean War Armistice Agreement, July 27, 1953, found at <http://news.findlaw.com/cnn/docs/korea/kwarmagr072753.html>

1948), the Syrian Golan Heights, and the Egyptian Sinai Peninsula.[188] Over the next five months, UNSC members engaged in intensive negotiations, which culminated in UNSC Resolution 242, affirmed with unanimous support in the Council.

While that resolution was based on principles in the UN Charter, in many ways the resolution actually elaborated on the norm and itself produced language which would inform many future resolutions concerning the territorial integrity norm. The resolution's preamble began by "Emphasizing the inadmissibility of the acquisition of territory by war" language far more categorical than that of Article 2(4). The resolution did strive for balance, and it was clear from the previous drafts which the Council rejected and the Council discussions that an Israeli withdrawal had to be in the framework of "a just and lasting peace in which every State in the area can live in security". Such "a just and lasting peace in the Middle East" would have to include two elements:

> (i) Withdrawal of Israel armed forces from territories occupied in the recent conflict; (ii) Termination of all claims or states of belligerency and respect for and acknowledgment of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force;[189]

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[188] One week after the war concluded, the Israeli cabinet passed a decision that it would exchange these territories for a comprehensive peace settlement with its Arab neighbors (see chapter 5 for in-depth analysis of this case).

[189] A sizable debate later ensued regarding the ambiguity of section (i), specifically whether the phrase "Withdrawal of Israel armed forces from territories occupied" was meant to allow for some Israeli annexations of the conquered territory, even if only in the framework of a peace deal. For examples of proponents of the full withdrawal approach, see Wright 1968, Perry 1977 and McHugo 2001; for examples of proponents of less-than-full withdrawal, see Lapidoth 1972, Schaeftler 1974, and Blum 2007.

One typical post-1967 case which repeated this formulation was the UN involvement in the Cyprus crisis of 1974.[190] Two days after a Greek-sponsored coup on the island triggered a massive Turkish invasion, the UNSC passed resolution 353. After "deploring the outbreak of violence and continuing bloodshed," and expressing its grave concern about this "threat to international peace and security," its operative section included four demands. The Security Council:

> 1. Calls upon all States to respect the sovereignty, independence and territorial integrity of Cyprus;
> 2. Calls upon all parties to the present fighting as a first step to cease all firing and requests all States to exercise the utmost restraint and to refrain from any action which might further aggravate the situation;
> 3. Demands an immediate end to foreign military intervention in the Republic of Cyprus that is in contravention of operative paragraph 1;
> 4. Requests the withdrawal without delay from the Republic of Cyprus of foreign military personnel…

Above are the key elements: calling on all countries to respect the "sovereignty, independence and territorial integrity" of the country at hand; demanding that fighting stop immediately; and demanding forces withdraw to antebellum lines.

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[190] Compare these two conflicts to the Suez Crisis of 1956. Due to UK and France involvement, there was no UNSC resolution. Instead, the UNGA passed resolution A/RES/997 (ES-I) on November 2, 1956. That resolution:
> 1. Urges as a matter of priority that all parties now involved in hostilities in the area agree to an immediate cease-fire and, as part thereof, halt the movement of military forces and arms into the area;
> 2. Urges the parties to the armistice agreements promptly to withdraw all forces behind the armistice lines, to desist from raids across the armistice lines into neighbouring territory, and to observe scrupulously the provisions of the armistice agreements;

The Nogorno-Karabagh conflict between Azerbaijan-Armenia (fought between 1991-1994) followed a similar recipe. All four UNSC resolutions[191] included calls for immediate cease-fires, unilateral withdrawal of forces from occupied territory, and reaffirm "the respect for sovereignty and territorial integrity of all States in the region," and "the inviolability of international borders and the inadmissibility of the use of force for the acquisition of territory."[192] Similar themes and formulations also appeared in UNSC resolutions regarding the war in Angola (1975-1976)[193] and the Iran-Iraq War (1980-1988).[194]

Finally, these same principles also undergirded the UN intervention following the Iraqi invasion of Kuwait in August 1990, one of the most brazen violations of the territorial integrity norm in the past half century. Within hours of that invasion, the UNSC passed Resolution 660, which condemned the invasion and demanded the immediate, unconditional withdrawal of Iraqi forces from Kuwaiti territory. With Soviets and Americans trying to put the Cold War to an end, the Soviet Union even proved willing to condemn its Iraqi client for violating the norm. Consequently, the UNSC passed over a dozen additional resolutions, including the imposition of comprehensive trade and financial sanctions against Iraq, a full embargo, and eventually approving military force to reverse the conquest.[195] When fighting ended,

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[191] These are UNSC Resolutions 822 of April 30, 1993, 853 of July 29, 1993, 874 of October 14, 1993, and 884 of November 12, 1993.
[192] For text of all relevant UNSC resolutions, see: http://2001-2009.state.gov/p/eur/rls/or/13508.htm
[193] See UNSCR 435/78.
[194] See especially UNSC resolutions 479 (September 1980), 582 (1986), and 598 (1987).
[195] The only exceptions were medical and humanitarian food supplies. All UNSC resolutions and committee reports on Iraq can be seen at:
<http://www.un.org/Docs/sc/committees/IraqKuwait/IraqSanctionsCommEng.htm>

the UNSC passed Resolutions 686 and 687, which set terms for Iraq's surrender—first and foremost, that Iraq "Rescind immediately its actions purporting to annex Kuwait," (686) and "Demands that Iraq and Kuwait respect the inviolability of the international boundary... signed by them... on 4 October 1963" (Resolution 687).

POTENTIAL CAVEATS TO THE TERRITORIAL INTEGRITY NORM

Given the centrality of the territorial integrity norm in so many foundational international treaties, it is odd to think it might have caveats or exceptions. In fact, there have been three main caveats put forward, but interestingly, there is no international consensus on whether any of them actually trump the norm in importance.

The first is the right to self-determination, which had a substantial impact on the World War I peace settlements. Every so often, self-determination continues to challenge the territorial integrity norm as sub-groups within states seek to become independent states themselves.[196] The second potential exception to the norm is related: can states use force to seize colonial possessions? Finally, some argue that the territorial integrity norm only applies in cases where the war was illegal, but what if a state is attacked, and in the course of self-defense, comes to conquer its enemy's territory? While a full consideration of the questions of self-determination and self-defense are beyond the scope of this chapter, the following section explores the anti-colonialism caveat.

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[196] The best discussion on this is Barkin and Cronin 1994.

Goa, The Falklands/Malvinas, and East Timor: The anti-colonialism trump card?

Since World War II, the vast majority of post-World War II interstate conflicts have emerged in places where European colonial powers once withdrew (India-Pakistan, Israel-Palestine, Korea, Chinese-Indian border, Vietnam, Cyprus, Angola, Karabagh, Ogaden, and Kuwait). In these cases, the withdrawal of the colonial powers left open questions about sovereignty—who has the right to rule and what are the successor state's (or states') legitimate boundaries?

Particularly challenging for the territorial integrity norm, however, has been cases of states that used force in an attempt to capture territory still held as a European colony. This question has arisen several times, including the Ifni War between Spain and Morocco in 1958, the Indian invasion of Goa in 1961, the Falklands/Malvinas War in 1982, and Indonesia's threat to invade West Papua in 1962 (and dubious annexation in 1969) and its later invasion of East Timor in 1975. (Far less challenging for the norm are cases like Iraq's invasion of Kuwait or its invasion of Iran. In these cases the borders may have been remnants of colonialism, but both states were long independent and recognized members of the UN. In the case of Iran, the two had even mutually recognized their border in the 1975 Algiers Accord.)

Both the League's Mandate and the UN Trustee systems ostensibly were based on the belief that colonialism could only be justified to the extent that it was a temporary outcome meant to shepherd the local population into independence. With colonial powers dragging their feet and the number of non-European members of the

UN on the rise, on December 14, 1960, the UNGA had passed Resolution 1514 (XV), "The Declaration on the Granting of Independence to Colonial Countries and Peoples." The resolution harshly condemned the continuation of colonialism, calling it "a denial of fundamental human rights" and an "impediment to the promotion of world peace and co-operation." Cajoling colonial powers to recognize that "All peoples have the right to self-determination," the resolution called for "Immediate steps" to be taken "to transfer all powers to the peoples of those territories, without any conditions or reservations…" Interestingly, in the one instance the resolution did recall the territorial integrity norm, it was to argue that the colonial powers had to respect "the sovereign rights of all peoples and their territorial integrity."[197]

Goa

The case of Goa was one of the first to put these two norms in opposition. In December 1961, India invaded the tiny Portuguese colony and annexed the territory and its inhabitants. Despite India's clear use of force to obtain territorial gains, the UNSC failed to pass a resolution condemning India's action (7 of 11 members voted for a draft resolution condemning India's use of force, but the USSR vetoed it).[198] Most incredibly, the day after the invasion, the UNGA passed resolution 1699 (by a vote of 90 to 3) entitled "Non-compliance of the Government of Portugal with Chapter XI of the Charter of the United Nations and with General Assembly resolution 1542

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[197] Full text of the resolution can be found at: http://daccess-ods.un.org/TMP/132889.039814472.html
[198] Korman 1996, pp. 267-275.

(XV)."[199] The resolution "Condemns the continuing non-compliance of the Government of Portugal" for its failure to take concrete steps to advance Goa towards fulfillment of its right to self-determination. After lambasting Portugal, it then called on member states to "use their influence to secure the compliance of Portugal with its obligations" and to "deny Portugal any support and assistance which it may use for the suppression of the peoples of its Non-Self-Governing Territories." The resolution included no mention of the need to "the respect for sovereignty and territorial integrity of all States in the region," or "the inviolability of international borders and the inadmissibility of the use of force for the acquisition of territory," which it had in other conflicts. Indeed, it did not even hint at a condemnation of India's action, only "[noted] the continuing deterioration of the situation..."

The Falklands/Malvinas

On April 2, 1982, Argentinia launched a surprise invasion of the Falkland Islands (Malvinas) to wrestle the territory from Britain, which had held it since 1833. The following day, UNSC passed resolution 502, which demanded "an immediate cessation of hostilities;" and "an immediate withdrawal of all Argentine forces from the Falkland Islands (Islas Malvinas)." As with resolutions on Goa, 502 included no mention of the need to "the respect for sovereignty and territorial integrity of all States in the region," or "the inviolability of international borders" or "the inadmissibility of the use of force for the acquisition of territory." It simply urged sides to negotiate an

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[199] Full text available at: <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/167/52/IMG/NR016752.pdf?OpenElement>.

agreed solution.[200] Tellingly, while resolution 242 (Arab-Israel conflict, see below) or 357 (Cyprus) were adopted unanimously, even this watered down resolution had a dissenting vote (Panama) and 4 abstentions in this resolution (Spain, Poland, USSR, and China). Spain actually argued that it was Argentina's territorial integrity that was being violated by the UK. Even among those who voted in favor of Resolution 502, several (Jordan, Uganda, and Zaire) thought that Argentina had a better claim to the island than did Britain.[201] The reason that these countries did not vote against the resolution was because they wanted to condemn the use of violence to resolve political disputes. On May 26, the UNSC passed a second resolution (505), but it was so diluted that it only urged sides to reach a cease-fire as soon as possible and requested the Secretary-General to assist in facilitating the negotiations.[202]

Argentina and its allies then moved the debate to the UNGA, where the UK was at a decided disadvantage. On November 4, 1982, the UNGA passed Resolution A/RES/37/9 by a wide margin (90 to 12, with 52 abstentions).[203] Here as well, there are no mentions of "respect for sovereignty and territorial integrity," or "the inviolability of international borders and the inadmissibility of the use of force for the acquisition of territory." The most it mustered was to reaffirm the principle of the "non-use of force or the threat of force in international relations and the peaceful settlement of international disputes". Instead, the General Assembly resolution began

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[200] Full text available at <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/502(1982)>.
[201] Korman 1996, pp. 278-9.
[202] Full text available at
<http://http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/505(1982)>.
[203] Vote count available at the UN website <http://www.un.org/en/ga/documents/voting.asp>.

by "Realizing that the maintenance of colonial situations is incompatible with the United Nations ideal of universal peace" and then recalled the previously mentioned UNGA resolution 1514 and similar resolutions.

Argentinean forces surrendered outright on June 14, 1982. In the instrument of surrender, however, Argentina made no territorial concessions.[204] In the decades that have passed, neither side has been willing to compromise on their claims to sovereignty over the islands, though the two normalized relations diplomatically and economically in February 1990. Since that time, Argentina has renounced the use of force, or even economic coercion (as it did throughout the 1980s), to force a British withdrawal. Indeed, its imports from the UK are greater than from all other EU countries, spare Spain, France, Italy, and Germany.[205] On the other hand, Argentina continues to press its claims via resolutions in international forums like the UN General Assembly and Organization of American States—both of which have sided with Argentina in the dispute.

East Timor

The case of East Timor is important because it shows the limits of this anti-colonial trump card. Namely, successor states who annex territory from a different colonial owner, particularly where the local inhabitants see their self-determination as being fulfilled outside of that successor state—the legitimacy of their claims is tainted.

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[204] Instrument of surrender available at: < http://www.britains-smallwars.com/Museum/Falklands/falkSurrenderDocument.html >.
[205] Argentine Ministry of Information. http://www.indec.gov.ar/nuevaweb/cuadros/19/ace2008_6.xls

The small island of Timor was colonized by Portugal beginning in the 1500s, but eventually partitioned after the Dutch had gained a foothold and the two countries had come to blows over the territory. The Japanese occupied the Dutch half during World War II, but left the Portuguese part alone (the fascist regime in Lisbon being neutral).[206] When the Dutch decolonized West Timor, it became part of Indonesia. However, it was not until Portugal's Salazarist regime was overthrown in a military coup on April 25, 1974, that East Timor began heading toward independence. The military promised to quickly allow for its territories to gain independence.[207] Within weeks of the Carnation Revolution, over a half-dozen political parties emerged in East Timor, with the social democrat Fretilin (*Frente Revolucionaria de Timor L'Este Independente*) and UDT (*Uniao Democratica de Timor*) parties gaining the largest backing. The two formed an alliance in January 1975 in order to press for independence, and an election was scheduled to take place in October 1976.[208] Indonesian intelligence then instigated civil war, convincing the UDT to undertake a pre-emptive strike to thwart Fretilin's supposed plans for an impending coup. With nearly 10,000 armed supporters, Fretilin quickly overcame the UDT and its allies. These groups then fled to West Timor, where Indonesian intelligence helped them to engage in cross-border attacks. By November 1975, combined Indonesian and Timorese forces had occupied substantial portions of East Timor, leading Fretilin to declare independence on November 29. The next week, Jakarta used declarations by

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[206] Kingsbury, 2000, p. 17.

[207] Some 140,000 of the country's 204,000 soldiers were posted overseas at any given time. BBC, http://news.bbc.co.uk/onthisday/hi/dates/stories/april/25/newsid_4754000/4754581.stm

[208] Kingsbury, 2000, p. 18; Clark, 2000.

the UDT and other small parties in support of integration to launch a massive assault on the island.[209]

Five days after the invasion, the UNGA passed Resolution 3485 (XXX) which "strongly deplored" the Indonesian invasion and called "upon all States to respect the inalienable right of the people of Portuguese Timor to self-determination, freedom and independence."[210] After considerable delay, on December 22, 1975, the UNSC passed Resolution 384. The resolution re-affirmed the territorial integrity of East Timor, its right to self-determination, and deplored "the intervention of the armed forces of Indonesia in East Timor," calling upon the former "to withdraw without delay all its forces from the Territory." [211] In April 1976, the UNSC passed another resolution (389), again demanding Indonesia's immediate withdrawal. This, however, was the last UNSC resolution on Timor until 1999.

In May, 1976, Jakarta attempted to repeat the strategy it employed for Papua, finding a number of tribal chiefs and other delegates connected to the UDT and its allies who would vote in favor of integration. As with Papua, Indonesia then claimed that these delegates represented the will of the people of East Timor. With Suharto endorsing the vote two months later, Jakarta attempted to legitimate its annexation of the territory. Unlike Papua, however, the international community was far less accommodating this time. The UNGA continued to pass resolutions condemning the invasion for the next seven years. Other international forums also condemned the

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[209] Kingsbury, 2000, p. 19.
[210] Texts of all relevant UNGA resolutions can be found at: http://www.etan.org/etun/default.htm
[211] Texts of all relevant UNSC resolutions can be found at: http://www.un.org/peace/etimor/docs/UntaetDrs.htm

annexation, including the Non-Aligned Movement (of which Indonesia was a founding member). In August 1976 at the meeting of the heads of state in Colombo, and later in Belgrade in July 1978, the movement unequivocally condemned the invasion and demanded Indonesia's withdrawal.

Despite this widespread official condemnation, there were cracks. Western governments, for the most part, did not move beyond rhetorical condemnation. Until 1999, the UNSC resolutions were not Chapter VII resolutions, meaning that they never authorized sanctions or the use of force to reverse Indonesia's move. Moreover, the United States and Japan abstained from the second UNSC resolution (389), and the United States even voted against the UNGA resolutions, sending at best an equivocal signal to Indonesia about Washington's willingness to accept the deed.[212]

In fact, beyond its vote in favor of UNSC 384, the United States took no substantial action against Indonesia. To the contrary, after the invasion, military aid was doubled and weapons sales quadrupled, including crucial counter-insurgency tools like helicopters and OV-10 Bronco aircraft. All said, over $1 billion in American arms were exported to Indonesia—which in the immediate post-invasion years accounted for 90 percent of Indonesia's weapon imports.[213] The main motivation behind Washington's policies, as Barnsley and Bleiker argue, was its concern "that recognition of East Timor's right of self-determination would encourage Indonesian

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[212] Scheiner, 2000, p. 119. Equivocal is probably being generous. Evidence suggests that the Nixon administration gave Suharto a green light to invade in 1975.
[213] Scheiner, 2000, pp. 118, 123.

ties with the Soviet Union."[214] Charles Scheiner concurs, "the reality was that the USA actually saw Suharto's stable anti-communist regime as a key Cold War ally."[215]

Australia was also quite obliging, despite its decisionmakers possessing clear intelligence about the Indonesian military's role in the pre-invasion attacks, plans to invade the territory, and intentional killing of five Australian journalists.[216] Australia recognized *de facto* the annexation in January 1978, making the recognition *de jure* in 1985. Although it was the only country ever to do so, its standing as both a "Western" democracy and Timor's closest neighbor gave its recognition a substantial degree of legitimacy. This said, Australia's decision to accord *de jure* recognition was tarnished by revelations that it was part of the negotiating process for an oil exploration and production treaty in the Timor Sea that was eventually signed in 1989.[217] Canberra's policy regarding Timor was in line with the country's overall policy towards the area; which sought Indonesian dominance in order to ensure a secure northern border, even if it meant turning a blind eye to gross human rights violations.[218]

Many governments besides the United States continued to supply the Indonesians with arms and training for officers, including the UK, France, and Australia. Indeed, another motivation for not condemning Indonesia more harshly was to maintain arms sales to that country. The UK, for instance, sold Jakarta APCs, water cannons, small arms, and even Hawk airplanes, which on several occasions were

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[214] Ingrid Barnsleya and Roland Bleiker, 2008, p. 28.
[215] Scheiner, 2000, p. 119. See also IISS, 1999.
[216] Ball, 2001, p. 36.
[217] Clark, 2000, p. 82; Armstrong, 2004, p. 786.
[218] Burchill, 2000.

spotted by foreign journalists flying over East Timor. The British government, for its part, denied until 1999 that there had been any such use.[219]

In the United States, this public pressure resulted in Congressional pressure for restrictions on arms sales, and by 1995, only a quarter of Indonesian imported arms were American. The State Department prevented the export of F-5 fighter planes, small arms, and riot gear.[220] On October 2, 1992, Congress passed a law forbidding Indonesian officers from participating in military training programs in the United States—a ban that continued under the Republican-led Congress of 1994.[221] In March 1998, a news report leaked US documents showing that US Special Forces were now training their counter-parts (who were widely used in East Timor) on Indonesian soil. The following uproar forced the Pentagon to cancel the training missions.[222]

Following the resignation of President Suharto in 1998, the new Indonesian president began a series of liberalization reforms, including the release of political prisoners. In January 1999, following pressure by Australia and other members of the international community, Habibie offered East Timor the opportunity to hold a referendum.[223] The military, however, was totally opposed, and it organized local militias with assistance of special forces and the intelligence services in order to

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[219] O'Shaughnessy, 2000, p. 37; Hainsworth, 2000, p. 96.
[220] *Ibidem*, p. 123.
[221] *Ibidem*, p. 121.
[222] *Ibidem*, p. 121.
[223] Burchill, 2000, p. 173; Walter, forthcoming. Burchill says that Howard actually pressed for ten years of autonomy and only then a referendum, though his government preferred East Timor remain part of Indonesia.

intimidate the local population.[224] Despite the intimidation, in August 1999, the Timorese voted overwhelmingly (78.5 percent) in favor of independence.[225] Following the vote, Indonesian forces—who were ostensibly there to maintain security—and the local militias went on a rampage, burning and looting anything of value, raping, torturing, and murdering thousands of pro-independence activists.[226]

As reports of the mayhem in Timor reached Western publics, their governments began pressing Indonesia for an immediate withdrawal from the territory and to allow for a UN-sanctioned force (called InterFET or International Force for East Timor) to enter to establish security. Finally, on September 15, 1999, the UNSC passed Resolution 1264, which based on Chapter 7, "authorizes the States participating in the multinational force to take all necessary measures" to restore security in East Timor. Even after InterFET's arrival on September 20, substantial numbers of Indonesian special forces remained on the ground, posing as local militiamen.[227] InterFET quickly succeeded in establishing order in the territory and eventually was able to pass command over to a formal UN force, UN Transitional Administration in East Timor (UNTAET). UNTAET worked with the local population to establish a democratic government, including the institutions and infrastructure necessary to run a state. On May 20, 2002, East Timor became an independent state,

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[224] Ball, 2001, p. 43. Descriptions of this intimidation can be found in several chapters of Kingsbury's (2000) *Guns and Bullets*.
[225] IISS, 1999, p. 1.
[226] Kingsbury, p. 77; IISS, 1999, p. 1.
[227] IISS, 1999, p. 1. Ten were arrested by INTERFET in September 1999. It is unclear to what degree they were following commands from the army's general staff and to what degree lower level commanders—who made lucrative side-profits from their service on the island—acted independently.

and UNTAET was succeeded by the UN Mission of Support in East Timor (UNMISET).

Conquest in the Case of Self-Defense

In light of Article X in the Covenant and Article 2(4) of the UN Charter, following World War II, there was no question that an unprovoked attack on one's neighbor would result in an invalid title should the initiator prove victorious.[228] But what if a country had been the target of aggression, but then managed to conquer territory from the aggressor? Here there has not been unanimous consent about whether victims of aggression are likewise bound to respect the territorial integrity of the aggressor.

The actual language employed in Article 2(4) of the UN Charter (and Article X of the Covenant for that matter) is ambiguous on the matter: "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state…" In order to see exactly how vague Article 2(4) is, compare it to the Charter of the OAS: "The territory of a State is inviolable; it may not be the object, even temporarily, of military occupation

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[228] Jennings 1963, p. 54. There was a minority opinion that even if the laws of war do not permit conquest, "The truth is that international law can no more refuse to recognize that a finally successful conquest does change the title to territory than municipal law can a change of regime brought about by a successful revolution. What have hitherto been the legal consequences of successful war cannot in the long run be
avoided by any change in the law, or any well-intentioned convention of states which does not also register a change in their practice in respect of war" Briely, *The Law of Nations*, 6th ed. (Waldock) p. l73, as cited in Israeli legal brief, p. 5.

or of other measures of force taken by another State, directly or indirectly, on any grounds whatever."[229]

Given the ambiguity of Article 2(4), several key arguments have been put forward to justify why such annexation either would or would not be legal. In 1963, Robert Jennings that "conquest as a title to territorial sovereignty has ceased to be a part of the law," no matter the circumstances:

> The grave dangers of abuse inherent in any such notion are obvious. Furthermore, the ideas rests upon a mistaken understanding of the limits of self-defence [sic]. Force used in self-defence—whatever that may mean—is undoubtedly lawful. But it must be proportionate to the threat of immediate danger, and when the threat has been averted the plea of self-defence can no longer be available…. [230]

Yet, as noted above, even after World War II, some states did annex territory captured as a result of war. When the right of defensive conquest was employed, however, it was not usually put in terms of an indemnity. Instead, the justifications given usually centered on the claim that these annexations would bolster the territorial integrity of the previous victim, and thus prevent future belligerence.[231] This was the justification cited by the Allies for Soviet annexation of Polish, Finnish, Japanese, and German territory post-World War II.[232]

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[229] Although not as strong as the OAS Charter, UNGA Resolution 2625 (1970) is still less ambiguous than Article 2(4): "No territorial acquisition resulting from the threat or use of force shall be recognized as legal."

[230] Jennings 1963, pp. 55-6.

[231] Jennings 1963, Korman 1996, and Sharma 1997.

[232] Korman 1996, p. 170-77.

Most famously, this question of defensive conquest was hotly debated following Israel's victory over its Arab neighbors during the Six-Day War in 1967. At the conclusion of that war, Israel occupied all of Jerusalem, the West Bank (previously occupied by Jordan since 1948), the Gaza Strip (previously occupied by Egypt since 1948), the Syrian Golan Heights, and the Egyptian Sinai Peninsula.[233] Over the next five months, UNSC members engaged in intensive negotiations, which culminated in the previously mentioned UNSC Resolution 242, which received unanimous support in the Council.

A sizable debate has since ensued regarding the purposeful ambiguity of section (i), specifically whether the phrase "Withdrawal of Israel armed forces from territories occupied" was meant to allow for some Israeli annexations of the conquered territory, even if only in the framework of a peace deal.[234] For purposes of the general norm, however, the larger debate has been over whether conquest is permissible when the use of force is considered justified. On the one hand are scholars including Elihu Lauterpacht, who argued:

> Territorial change cannot properly take place as a result of the unlawful use of force. But to omit the word 'unlawful' is to change the substantive content of the rule and to turn an important safeguard of legal principle into an aggressors charter. For if force can never be used to effect lawful territorial change, then, if territory has once changed hands as a result of the unlawful use of force, the illegitimacy

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[233] One week after the war concluded, the Israeli cabinet passed a decision that it would exchange these territories for a comprehensive peace settlement with its Arab neighbors (see chapter 5 for in-depth analysis of this case).

[234] For examples of proponents of the full withdrawal approach, see Wright 1968, Perry 1977 and McHugo 2001; for examples of proponents of less-than-full withdrawal, see Lapidoth 1972, Schaeftler 1974, and Blum 2007.

of the position thus established is sterilized by the prohibition upon the use of force to restore the lawful sovereign. This cannot be regarded as reasonable or correct.[235]

Other scholars concur with Jennings, arguing that even if Israel's action was defensive, this would not give it the right to annex territories won through force of arms. For instance, Glenn Perry writes that "…even a defensive action, under Article 51 of the Charter… is permissible only 'until the Security Council has taken measures necessary to maintain international peace and security." Therefore, once a resolution has been passed (i.e. 242), the right to defense is no longer the guiding principle. Secondly, Perry argues, resolution 242 "rejects acquisition by war without regard to whether Israel's resort to force was legal. In other words, the resolution 'goes beyond the principle of 'no fruits of aggression.'""[236]

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[235] Lauterpacht 1968, p. 52.
[236] Perry 1977, p. 424.

Chapter 3:

How the Territorial Integrity Norm Impacts

War Initiation and War Termination

This chapter lays out a more general theory about how the territorial integrity norm should lead to a dramatic reduction in the number of interstate wars which end in peace accords. To be valid, such a theory must address several subsidiary questions. First, assuming such a norm exists and is effective, how precisely would it alter post-conflict bargaining as compared to an identical system where territorial conquest was permissible? Second, what would happen if we relax the assumption that the norm is effective? That is to say that even if a norm existed 'on paper,' it might only be partially successful at reigning in state behavior in practice. In which case, how would that affect state behavior? This relates to a third issue: why would actors obey such a norm in the first place? Finally, any such theory must contend with Geoff Blainey's infamous contention, that "What causes nations to cease fighting one another must be relevant in explaining what causes nations to begin fighting one another."[237] In other words, such a theory cannot suffice with explaining war termination, but must also make clear how the territorial integrity norm impacts war initiation as well.

Before tackling the theory itself, I begin with an extended discussion about why actors obey norms in general. Following this, I expound the theory on how the

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[237] Blainey 1988, p. x.

territorial integrity norm specifically works and how it affects the nature of war, throughout which I derive several testable hypotheses.

WHY STATES COMPLY WITH NORMS

Norms are frequently defined as "a standard of appropriate behavior for actors with a given identity."[238] Precisely because such standards can greatly influence behavior, leaders, activists and intellectuals promote and contest different potential standards until a consensus emerges.[239] Even then, mature norms are sometimes disputed and change over time. Over the past 25 years, scholars of international relations have carefully traced the development of countless norms, many of which revolve around a rather unlikely candidate: how states fight wars (where, it turns out, 'all is *not* fair'). This includes robust norms, like the taboo against assassination of state leaders,[240] treatment of prisoners of war and immunity of medical personnel,[241] or the taboo against using weapons of mass destruction.[242] It also includes numerous examples where an emergent norm failed to gain either consensus or widespread adherence, such as limitations on submarine warfare and aerial bombing of civilian targets.[243]

The sizable literature on norms offers a myriad of potential casual mechanisms which can explain why actors comply with norms. We can boil these reasons down to

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[238] Finnemore and Sikkink, 1998, p. 891.
[239] One of the best treatments of this aspect of norms is Barnett 1998.
[240] Thomas 2000
[241] Finnemore 1999.
[242] Price and Tannenwald, 1996; Price 1997, Tannenwald 2007.
[243] Legro 1997.

three classes of motivation.[244] First, an actor may obey a norm because it seeks to avoid the negative reactions of others. Second, an actor may obey a norm because it believes obeying the norm coincides with its material interests. Third, an actor may obey a norm because defying it would impugn the actor's identity.

In what follows, I will elaborate on each class. I then discuss three caveats: that these motivations are in no way mutually exclusive; that most of these motivations may not, in and of themselves, always be sufficient conditions for compliance; and that the *sine quo non* for each mechanism to function is that actors must anticipate that most other actors will comply with the norm as well. Finally, I discuss how we should conceive of norm strength.

Avoiding the negative reactions of others

Some institutionalist and constructivist scholars argue that actors obey norms because they seek to avoid the negative reactions of others, though traditionally scholars from these two schools of thought focused on different types of "reactions" that actors seek to avoid. The institutionalist literature generally focuses on enforcement or reputation. Enforcement occurs when actors impose concrete costs on norm violators in direct response for their violation. In the case of the territorial integrity norm, enforcement measures include the use of force to reverse attempts at conquest (e.g. Korea in 1950, Kuwait in 1990) or the imposition of substantial

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[244] This breakdown borrows loosely from Aronson 2008 (especially pp. 28-38). However, each motivation type in Aronson has only one mechanism.

military, economic and diplomatic sanctions on norm violators (e.g. the non-recognition and boycott of the Turkish Republic of Northern Cyprus).

A different negative reaction that actors might fear is that it might impinge their reputation. In the international arena, when a state transgresses against a widely held norm, others may derive conclusions about that state's likely future behavior in all types of situations.[245] Other states might assume that a state which tramples on a norm or a commitment in one situation may be more likely to transgress against other norms or commitments as well, making the transgressor a less desired trading partner, military ally, etc.[246]

Constructivist scholarship, on the other hand, has tended to focus on non-material incentives, such as the desire to conform or avoid diplomatic censure (i.e. "naming and shaming,")—neither of which primarily involve material costs. This said, for over two decades, even scions of rational choice have accepted that people often obey norms solely in order "to avoid the disapproval – ranging from raised eyebrows to social ostracism – of other people."[247] Of course, these supposedly distinct mechanisms—material versus social incentives—are likely not so distinct. Being the

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[245] See the discussion of reputation in chapter 1.

[246] Gelpi 2003, Tomz 2007, Lebovic and Voeten 2006.

[247] Elster 1989, p. 131. Sugden similarly wrote people obey norms because they wish to avoid being "the focus of another person's ill-will, resentment or anger." "The mechanism that can transform conventions into norms," Sugden wrote, "is the human desire for the approval of others. Although this desire is rarely considered by modern economists, introspection surely tells us that it is at least as fundamental as the desire for most consumption goods. That we desire approval should not be surprising: we are, after all, social animals, biologically fitted to live in groups." (Sugden 1989, p. 95)

Precursors to this can be found in John Stuart Mill's *On Liberty* (Chapter 1), "when society is itself the tyrant… its means of tyrannizing are not restricted to the acts which it may do by the hands of its political functionaries…. [There is a] tendency of society to impose, by other means than civil penalties, its own ideas and practices as rules of conduct on those who dissent from them; to fetter the development, and, if possible, prevent the formation, of any individuality not in harmony with its ways, and compel all characters to fashion themselves upon the model of its own."

target of social ostracism raises the probability of suffering negative material consequences in the future. In this vein, Lebovic and Voeten (2009) argue there are multilateral aid costs to being 'named and shamed' in the UN Human Rights Commission. If a state regularly defects from international norms, it runs the risk of becoming an international "pariah" or social outcast, which may incur costs similar to those imposed on the outcasts of any society. Pariahs are not afforded the protection of other norms[248] and lose the collective (albeit informal) insurance of society when faced with an unforeseen calamity. For instance, states might be more generous in their assistance to a disaster-struck country with which they feel great affinity than one considered a global miscreant (*ceteris paribus*).

Norm accords with the actor's interests

To say that an actor could follow a norm because it believes such behavior is "in its interest" also captures a great number of different causal mechanisms. First, it could be that a norm is essentially descriptive and not prescriptive, such as with traffic rules.[249] In such cases, actors are likely to fare far worse if they fail to abide by the norm. Should a driver disobey traffic norms, for instance, they run the risk of grave physical danger.

In this context, neo-realists would likely argue that many international norms (just like many institutions) are "epiphenomenal"—that they simply accord with the

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[248] Consider how after Iranian revolutionaries overran the U.S. embassy in Iran, Iran failed to win international sympathy when Iraq invaded and when it used chemical weapons on Iranian cities. It seems likely that a "law abiding" country would have received far greater international support.
[249] Sugden 1986, Bicchieri 2006.

material interests of the most powerful actors who get to dictate the rules of the game to the less powerful actors.[250] As such, realists contend, powerful states follow the norm because it suits them. Less powerful states follow the norm out of fear of retribution.

Constructivists also argue that actors sometimes follow norms because they believe it to be in their interest. The novelty in their argument is that "interests" themselves are endogenous to the process of norm-building. Negotiations, they argue, are not simply about dictating terms or figuring out where on the pareto curve to strike a bargain—these scholars contend that negotiations are also opportunities to engage in genuine discussions about what interests states ought to pursue, and sometimes states change their beliefs about what their interests actually are.[251] As Chayes and Chayes put it:

> But modern treaty making, like legislation in a democratic polity, can be seen as a creative enterprise through which the parties not only weigh the benefits and burdens of commitment but explore, redefine, and sometimes discover their interests. It is at its best a learning process in which not only national positions but also conceptions of national interest evolve. This process goes on both within each state and at the international level.[252]

Finally, actors may abide by a norm because long-term cooperation will bring bigger gains than short-term defection from the norm. The most simple version of this mechanism is Axelrod's "tit-for-tat" (1984), where he finds cooperation is a

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[250] For the realist discussion of international institutions, see Mearsheimer 1994/95 and 2001; and Waltz 2000.
[251] Chayes and Chayes 1993, Barnett 1997, Risse 2000, and Checkel 2001.
[252] Chayes and Chayes 1993, p. 180.

sustainable equilibrium in a reiterated prisoner's dilemma. In many instances, however, there is not a clear, direct or immediate "tat" for every "tit." If a single state defects from a system-wide norm, it might only marginally increase the probability of other states defecting. In particular, if a very prominent state grossly violates a norm, it may send a clearer signal to others about norm adherence[253] (and thus, have more deleterious effects on cooperation) than if a very marginal state were to act in identical fashion.

Implicating Identity

Finally, actors may comply with a norm—sometimes even at great and clear material cost to themselves—because it affirms their identity; or often more to the point, because defying the norm would impugn the actor's identity.[254] This can occur in two ways. First, norms that are deeply internalized are obeyed out of deep conviction that doing so is a moral imperative, and as such, actors become self-motivated not to challenge it.[255] In these cases, as Ian Hurd argues, "the decision whether to comply is no longer motivated by the simple fear of retribution or by a calculation of self-interest but, instead, by an internal sense of rightness and

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[253] Such defection can signal a number of factors: true rate of norm adherence; how "morally reprehensible" the violation is; what the true opportunity cost of obeying the norm is; or what the likely punishment is.

[254] Barnett 1997.

[255] Finnemore and Sikkink 1998, Hurd 2007.

obligation."[256] To take Hurd's point one step further, the "cost" of violating such a norm is that it would undermine one's view of themselves as a morally upright person.

Alternatively, identity concerns may also be at work even when the state (i.e. its public or leadership) is not especially convinced about the intrinsic value of a particular norm, but realizes that the norm is part of what a nation with a given identity (e.g. "liberal democracy" or "Marxist state") is expected to do.[257] Thus, for instance, a state which wishes to be considered a liberal democracy might improve minority rights in order to better align themselves with the perceived requisites of liberal democracy, even if they have not actually internalized the "rightness" of granting minority rights, *per se*.[258]

In this vein, it is critical to point out that moral reasoning alone cannot determine which principles become norms or which norms are widely obeyed. As Ward Thomas has argued,[259] the strong taboo against assassination of state leaders is of very flimsy moral standing. Jeffrey Legro likewise points out that on purely

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[256] Hurd 2007, p. 31. Hurd argues this is the case for anything considered "legitimate." While sometimes true, what is considered "proper or appropriate" is not always considered "desirable." In which case, one can view an action as legitimate, but desire to change it anyway for an alternative, but equally legitimate, option. Most people who receive a traffic ticket understand that the officer is within his or her right to issue the ticket, even though they universally plead for the officer to be lenient with them. In terms of international relations, a country might desire to see a particular UN secretary-general replaced (perhaps he's considered unsympathetic to that country), while at the same time accepting his legitimate right to both have attained the position in the first place and to continue functioning as secretary-general.

[257] Finnemore 1993.

[258] Fazal (2007) asks an important question regarding norm internalization: why is it that actors internalize norms to different degrees? Her answer is that "the degree to which the enforcement of a norm affects actors' material interests will vary greatly. For some actors, the norm will accord perfectly with their interests, or will be irrelevant to those interests. For other actors, the norm may directly oppose *ex ante* material interests."(p. 54) A second possibility—ironically put forth by scions of rational choice such as Sugden (1989) and Elster (1989)—is that the critical variable is the degree to which a new norm is congruent with other norms (especially "meta-norms") held by each actor.

[259] Thomas 2000.

humanitarian grounds, it is difficult to understand why aerial bombardment of London was more heinous than the siege of Leningrad.[260] Similarly, it is hard to argue that death by chemical weapons is so much more terrible than death by other widely accepted weapons like flamethrowers.[261]

Caveats

To begin, despite substantial differences in the mechanisms I have described, they all have at least one feature in common: those writing on norm compliance generally hold that people will comply with norms if, and only if, they anticipate that most others will comply as well. As Bicchieri elucidates, "the very existence of a social norm depends upon a sufficient number of people believing that it exists and pertains to a given type of situation, and expecting that enough other people are following it in those kinds of situations."[262]

Even for a norm convention, whereby actors will always be worse off defecting from the norm,[263] if enough other actors simultaneously decide to abide by a different convention, then maintaining the old one becomes a strictly dominated strategy (imagine if all drivers, simultaneously, began driving on the other side of the road). Similarly, even in a situation where enforcement is the key compliance

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[260] Legro 1997, p. 52
[261] Legro 1997 and Price 1997.
[262] Bicchieri 2006, p. 2.
[263] See Bicchieri 2006 and Sugden 1989.

mechanism, if most actors simultaneously defect from the norm, enforcement cannot but fail.[264]

Indeed, the second caveat to this discussion on norms is that most of these motivations are not, in and of themselves, always sufficient conditions for compliance. While this may be obvious with enforcement, it is no less true for internalized norms or those where identity is implicated (a point that seems missed by much of the constructivist literature). State leaders, like their citizens, often enact policies that fly in the face of what they hold to be "right," especially when material opportunity costs are high. In such instances, states can either invest in keeping such violations secret or will produce elaborate justifications.

This leads to the third and final caveat: while much of the literature on norms attempts to disaggregate the compliance mechanisms I have described, there is no reason to believe that one is mutually exclusive from any other. Consider the case of being stuck in a massive traffic jam, and then being tempted to drive on the shoulder of the road. Our driver likely refrains from moving to the shoulder for a combination of reasons, including fear of police enforcement; fear of the grimacing stares, hollers and honks he may get from other drivers; fear that if some other rebellious type should suddenly and carelessly gets the same idea, he could be injured in an accident; fear that someone he knows from work might spot him and tell others about his behavior; or concern that he would be ashamed of himself in hindsight. Consequently, because any single mechanism, or combination thereof, could lead to the same outcome,

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[264] Revolutions in totalitarian regimes provide the best example.

knowing which motivation impacted an actor's decision and to what degree is a particular challenge. Worse still, in many cases, it may not be the case that the same mechanism motivates every actor's behavior. In any given setting, the actor promoting the norm and the early adopters are likely motivated by beliefs about right and wrong, while others may oblige only due to the fear of enforcement.

On Norm Strength

How can we get at the independent strength of a norm? In other words, there are some norms that are purely a function of material interests: we wear coats in the snow because it is cold. If the material circumstances shift (e.g. it gets warmer), the norm should shift without hesitation. This suggests that the longer it takes for behavior to adjust to changes in material circumstances that are to the determent of the norm, the stronger the norm. The converse should also hold: if material circumstances do not change appreciably, but behavior does, it is suggestive that changes in norms have affected behavior.[265]

I propose the following formula as a sort of Platonic ideal for how one would determine the strength of any given norm:

$$S = f\,(Mb - Mc)$$

where norm strength (S) is equal to the frequency (f) a given norm is observed being conformed to (how often the norm obeyed out of all the times it could have been

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[265] One alternative explanation is "learning," in other words, that actors suddenly become aware to material conditions in ways they were ignorant previously. In such a scenario, behavior can change radically without a change in material circumstances, even though it is not really "norms" at work.

obeyed or disobeyed) given material opportunity costs paid for abiding by the norm—the material benefits of abiding by the norm (M_b) minus the material opportunity costs paid by abiding by norm (M_c). In line with the above discussion on the variety of mechanism for norm compliance, this formula does not attempt to gauge norm internalization. In order to isolate internalization, the benefits of defection should be divided by the probability (p) one gets caught abridging the norm times how costly (C) the punishment is for getting caught. As such, the following formula would be a more appropriate approximation of norm internalization:

$$S = f\left(\frac{(Ma - Mo)}{p(C)}\right)$$

Of course, the way leaders think about all these factors should be Bayesian in nature, meaning that beliefs should be updated to some degree based on new information. This is particularly true regarding what the punishment is likely to be if one gets caught violating the norm.

As an illustration of how this could be operationalized, consider the strength of the taboo against the use of chemical weapons (CW) in warfare. The following would be one way to operationalize the formula:

$$\text{CW Taboo Strength} = \frac{\text{\# of states who used CW}}{\text{\# of states who fought wars}} *$$

$$(\text{Effectiveness of CW alternatives} - \text{Effectiveness of CW})$$

The degree to which the CW Taboo had been internalized would be operationalized thus:

$$CW \text{ Internalization} = \frac{\text{\# of states who used CW}}{\text{\# of states who fought wars}} *$$

$$\frac{\text{Effectiveness of CW alternatives} - \text{Effectiveness of CW}}{\text{Probability of getting caught} * \text{Penalties if caught}}$$

Again, however, this is really an exercise more than a formula that is likely to be implemented any time soon. Operationalizing this formula in practice will not come easily for many norms. For other norms, parts of this equation are relatively straight forward, while others are not. In our example here, we know with certainty which countries fought wars (if we exclude definitional problems), but who actually used chemical weapons is sometimes a matter of dispute.[266] Far more difficult still is a quantitative determination about the effectiveness of CW in a war versus the effectiveness of the best alternative. For the same reason that who used CW in a conflict is sometimes in dispute, it would be hard to know what the probability of getting caught is, and perhaps most difficult of all is the estimation of the potential penalty if the state is caught using CW. Additionally, states frequently learn new information about these factors: their estimations about the potential effectiveness of CW changes when they witness its use on the battlefield or in training. When other states use CW, they also see how the international community responds. If the state pays a high price or no price, it may change their estimation about whether it is worthwhile to abide by the norm themselves. Similarly, in almost every case of CW

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[266] In classified assessments, the CIA accused the Soviet Union of CW use in Afghanistan and Vietnamese forces of using CW in Laos, Kampuchea, and on the Thai side of the Kampuchean-Thai border. See, for example, Director of Central Intelligence, "Use of Toxins and Other Lethal Chemicals in Southeast Asia and Afghanistan," Special National Intelligence Estimate (SNIE 11/50/37-82) Memorandum to Holders (secret) 1983, <http://www.foia.cia.gov/sites/default/files/document_conversions/89801/DOC_0000284024.pdf>

use since the ban on chemical agents was first put in place in 1907, armies defying the ban have started out "testing the waters" themselves: using very small quantities of one of the least abhorrent gases, like chlorine.[267]

Again, this approach is a sort of Platonic ideal, which is exceedingly difficult to actually implement. Yet, the exercise is important because it helps to clarify the role of opportunity costs for appreciating norm strength in general, and perceptions of the likely costs and chance of getting caught in appreciating the degree to which a norm is internalized.

THE THEORY

Definitions

I define the territorial integrity norm as the prohibition against the acquisition of territory via military force or threat. Although in principle this prohibition should be universal, like most norms, its applicability is conditional. First, it applies to countries with clearly recognized borders more than to those who maintain contested boundaries. Clearly recognized borders are territorial boundary lines demarcated and mutually agreed to in a formal treaty by those states who share the border—even if one neighbor eventually reneges on the agreement. Second, an attempt to wipe out state sovereignty entirely is considered a larger violation of the norm than are attempts at minor border alterations.

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[267] See Brown, "The Chemical Weapons Taboo After Syria," forthcoming.

Assumptions

I begin this theory with several assumptions:

First, I assume that all actors are rational. Even if they work with limited information, they do undertake actions that are meant to achieve their goals while incurring the lowest possible cost, and based on anticipation about the moves that other actors will make.

Second, I assume that all countries prefer to maintain the territorial integrity norm in general. At the same time, I also assume that occupying territory is inherently valuable for any individual state.[268] I further assume that the territorial integrity norm notwithstanding, annexing occupied territory is even more beneficial for a state than merely occupying it.[269] As a result, when the territorial integrity norm is in effect, some incentive to defect from that norm will always exist, even if outweighed by other factors like an unfavorable balance of forces, fear of the international response, or fear the norm will unravel. This is to suggest that there is a tension between the rules countries want others to abide by and exceptions they wish for themselves.

Third, while the vast majority of the international relations literature assumes that the world is anarchic and lacks any governing structure, I assume the opposite: that the international community does, in fact, carry out functions which can only be

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[268] Occupying additional territory is valuable because it allows for obtaining its natural resources and increases the occupying state's strategic position giving it an additional advantage in future warfare. This stands in contrast to theories that 'conquest no longer pays.'

[269] Annexing territory is more valuable than merely occupying it because it allows for one to impose and enforce its laws on the territory, which encourages economic activity there. Annexing territory also signals to the adversary that one will not easily withdraw from the territory. This both advantages the annexing state in its negotiations with the defeated state, and encourages investment and economic activity.

described as governance. Most importantly, governance means that rules are made and coercion is employed to enforce those rules. In this sense, the territorial integrity norm is the international version of fundamental property laws passed by almost all governments. These property laws make clear that agreements over property ownership (internationally, this means "sovereignty over territory") are considered binding. As a result, should one side renege and use brute force to re-partition that property, the initial agreement can be enforced by the international community. Governance also means that when disputes arise, they may be settled through a judicial-like arbitration without necessarily resorting to force to resolve such disputes. Finally, governance means that the community, through established institutions, takes decisions in order to overcome collective action problems, including decisions about the provision of public goods.[270]

Moreover, because the opportunity cost for states is occasionally very high, I also assume that the essential causal mechanism for maintaining the norm is third party enforcement. Consequently, should a war take place and a belligerent violates the territorial integrity norm, the international community must decide what enforcement action to take. (If no such norm exists, then there is no need for action.) For the sake of parsimony, in this model, the international community has three options for how robustly to enforce that norm: diplomatic non-recognition, imposing

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[270] Before the League of Nations, an assumption of anarchy is a more fitting assumption to describe the international system. However, the assumption of anarchy—which is adopted by theorists who tend to disagree about almost everything else—simply does not describe the international system since then, and especially not since the establishment of the United Nations. By no means a perfect system of government (no government lives up to the ideal), it was created with governance aims in mind and to a degree underappreciated by most international relations theorists, it carries out those functions.

sanctions, or using military force to reverse the conquest. I assume that using military force is more costly to the international community than imposing sanctions, which in turn are more costly than non-recognition. Because more costly measures impose greater costs on the conqueror as well, the more costly the move for the international community, the greater the probability that the enforcement measure will succeed in forcing a conqueror to withdraw, such that if the international community chooses to use force to uphold the norm, they will reverse the conquest with a high probability, while sanctions will coerce a conqueror to withdraw fully with a lower probability, and non-recognition will coerce the conqueror with a lower probability still.

In order to simplify the model, I assume that the international community does not actually need to come to a determination about whether an infraction has occurred because the facts are not in dispute. These facts include: which side occupies what territory at any given moment; where the *status quo ante* boundary was set (even if it had been formally disputed); whether there was a clearly recognized border before fighting began; and whether the conquering force intends to occupy a conquered territory temporarily or annex it permanently.[271] Also, although in reality, these determinations and the determination regarding enforcement is usually made by a select coordinating body (i.e. the United Nations Security Council or the Council of the League of Nations), I simplify the model by assuming the international community acts as a unitary actor and it prefers that the norm be upheld. Eventually, I will relax

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[271] A more justifiable assumption than might appear on the surface. Historically, most of these points usually are not actually in dispute. What is frequently in dispute is who has a "right" to sovereignty over a given territory.

this unitary actor assumption in order to consider the effect when the international community is not a unitary actor.

Finally, I assume that when belligerents sign a peace treaty, it ends all international enforcement action and the costs incurred by conquering states, regardless of the contents of the treaty (meaning if the conquering country gains territory in such a treaty, the international community accepts it).

War Initiation

Keeping all other factors equal, what should be the difference between a world with a robust territorial integrity norm and one where it does not exist? Because conquering additional territory is valuable, where the territorial integrity norm does not exist, states should embark upon conquest based dyad-specific material considerations. Namely, these decisions should be based on likelihood of victory, costs of war, and what additional gains are provided by conquest beyond those of relations between two sovereign nations (e.g. international trade). War initiation should correlate strongly to differentials in the balance of forces between countries (including alliances) and variations in the value of territory, especially along border regions. While these causal factors are orthogonal to my key variable (the territorial integrity norm), my claim here is that they should have a far greater impact where a territorial integrity norm is absent. For similar reasons, this theory is agnostic about how this balance of forces specifically will impact war initiation. It could be that the realists are correct, meaning "might made right": stronger states would attack their

weaker neighbors because they could anticipate territorial gains if victorious.[272] On the other hand, one of the leading rationalist theories on war onset argues that the reason for war occurs is because there is the two sides do not share the same evaluation regarding the likelihood about each side's chances to emerge victorious.[273] Thus, it could actually be that the more lop-sided the balance of forces between two countries, the less chance there is for mutual optimism (because defeat would be increasingly clear for the weaker state), and thus the likelihood of war could go down. Either way, what matters for this theory is that the balance of forces matter much less when states should be constrained by the norm.

In contrast, in a world characterized by a robust territorial integrity norm, the international community would maintain the norm by ensuring all states believe that an unequivocal infraction will most likely be reversed or result in costs far exceeding any benefit accrued by gaining territory. Such a belief requires setting precedents, so that the council should meet any clear infraction with a strong reaction. As a result, unequivocal violations of clearly recognized boundaries should become rare.

However, this would not spell the end of all wars. In such an environment, if one state attacks another, it could be for one of two other reasons:

1) There are no *ex ante* clearly defined or mutually recognized border. In which case, the initiator of hostilities likely believes the norm *does not apply* for this conflict.

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[272] The classic statement on this is found in the neo-realist theory purported by Waltz (1979).
[273] Blainey 1988 and Stoessinger 1973; Fearon 1995 argues that the uncertainty is derived from "private information with an incentive to misrepresent."

2) The goal of the initiator is not to annex additional territory but to achieve some other goal. In which case, we should anticipate actors declaring at the outset that they do not intend to annex territory they might conquer or occupy, that they have no claim to the territory, and that they will withdraw their forces once these other non-territorial objectives are met.

Regarding war initiation, we can deduce the following hypotheses:

H1: As the territorial integrity norm is more robustly enforced, states which have mutually recognized boundaries will be less likely to go to war:

  a) than states who have contested boundaries;

  b) than states who had mutually recognized boundaries when the norm is less robustly enforced.[274]

H2: As the territorial integrity norm is more robustly enforced, differentials in the balance of forces will be less likely to impact the probability that states with mutually recognized boundaries will go to war

  a) than states who have contested boundaries;

  b) than states who had mutually recognized boundaries when the norm is less robustly enforced.

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[274] I had considered an additional hypothesis: "As the territorial integrity norm is more robustly enforced, when countries with recognized borders go to war, it should be less likely to be over territory." The problem is testing such a hypothesis, as the data for such a variable will inherently be unreliable. See note 7 in Chapter 1.

When enforcement is uncertain

Next, what are the implications for war initiation of relaxing the assumption that the international community is a unitary actor? Assuming that some decision-rule is adopted,[275] two additional considerations should emerge. First, there will be a problem of collective action in enforcing the norm.[276] By this, I mean that whether sanctions are imposed or military force is used, some countries will bear a bigger burden to enforce while others "free ride" (gaining governance without having to pay for it). The difficulties in overcoming this problem should mitigate by some (difficult to anticipate) degree the likelihood of the international community adopting the harshest response. Second, individual countries likely have conflicting interests (e.g. alliance commitments, trade) regarding the belligerents. Some countries may go to great lengths to ensure the strictest enforcement measures are not carried out against their allies, reducing the probability of military reversal or sanctions. At the same time, other countries might take advantage of a norm infringement to punish an adversary. Again, this dynamic introduces greater uncertainty about what enforcement measure the international community will adopt. This is especially true if combined with some other circumstance which may lead to exceptional treatment. For instance, if conquest of a given territory had global repercussions (usually economic), then

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[275] For example, the UN General Assembly's decision rule is majority-rule in an equal vote of all member states. Of course, the binding decisions are usually those of the Security Council, a select coordinating body which uses majority-rule, but also includes veto rights for the five permanent members. For this theory, it is irrelevant which rule is adopted.

[276] Olson 1965.

norm enforcement should be stricter. Or conquest in a part of the world that receives little global media attention should (*ceteris paribus*) have more lax enforcement. This is because norm violations in far flung places are not very telling about what would happen in case of violations in other parts of the world, as "far flung" places are, in part, considered far flung precisely because there are few long-standing, important material interests there.

Potential uncertainty regarding norm enforcement creates a third possibility for norm violations: states may believe that an unequivocal infraction of the norm will be costly, but not necessarily enough so that it reverses their conquest (that is to say that force will not be used and even if sanctions are imposed, the price would be sufferable). Even if the initiator realizes that annexing the conquered territory would not be recognized, if the material gains of *de facto* possession are high enough, then it might be willing to bear the brunt of diplomatic isolation and sanctions. In such an environment, if one state attacks another, it could be for reasons 1 or 2 listed above or:

3) The initiator must believe the likely costs of international enforcement would be offset by the benefit of the territory it seeks to annex. This is would mean that a violator must have some cause to believe enforcement will not be maximal and that the potential gain is particularly high. For instance, when the territory in question possesses resources that provide high rents (e.g. oil) or provide extreme strategic benefits (e.g. militarily advantageous geography; access to a naval port).

From this discussion we can derive the following hypothesis:

H3: When the enforcement of the territorial integrity norm is less certain, the more valuable the weaker state's territory, the more likely will it be for two states with mutually recognized boundaries to go to war.

War Termination and Post-Conflict Bargaining

When fighting ends, what should be the difference between a world characterized by a robust territorial integrity norm and one where it does not exist?

If there is no territorial integrity norm, then outside intervention in fighting should be a function of alliances. Once fighting has concluded, it would be unlikely that additional countries would suddenly emerge to influence the outcome of bargaining. With defeated countries unable to count on outside intervention to reverse their losses, countries should sign peace accords and sign them quickly. First, conquering states have a strong outside option—they can unilaterally annex occupied territory at any moment of their choosing. In fact, victors have no reason to declare at the outset that they only intend temporary occupation aimed at achieving other aims, unless such a conquest would upset the balance of power. Even if they did not intend permanent conquest, concealing their intention would likely allow for greater non-territorial gains at the bargaining table.

With defeated countries seeking to regain any lost territory possible, they should be willing to sign a formal concession over the rest in order to do so. This is particularly true because in such an environment, such concessions are essentially

"cheap talk," as defeated countries can always renege on treaty commitments and reignite hostilities in the future without concern that the international community will impose large costs.

In a world without a territorial integrity norm, would it matter whether the belligerents had contested or recognized *antebellum* boundaries? Not really. There would be no inhibition to drawing new boundaries along any line the belligerents decided on. Other countries would also have no stake in where the ex post borders lie, *per se*, so long as it not strongly effect the balance of power. The only way in which there might be a difference is that countries who had already signed an agreement setting out boundaries now would face a reputation problem, as there would be even fewer reasons to believe that a new boundary agreement would be respected in the future.

Compare this to a system where the norm is robust and countries had mutually recognized boundaries. In this scenario, conquerors should be unlikely to unilaterally annex territory, as annexation would not be recognized and should lead the international community to use sanctions or military intervention to reverse the conquest. Such intervention is likely because a clear violation would have occurred despite a prior belief that enforcement was strong, meaning that failure to uphold the norm would cause all states to revise their beliefs regarding the norm and reconsider their own options for attack and annexation. Such a reassessment runs a substantial risk of the norm itself unraveling, which would be costly for all states.

In order to avoid military reversal or costly sanctions, conquerors should offer major concessions to the defeated party—i.e. the return of some or all of the occupied territory—in exchange for a peace treaty where the defeated forfeits sovereignty over the rest of the territory or makes concessions on other, non-territorial issues. At the same time, however, in cases where the international community threatens to use force, why would defeated states sign such peace treaties? In this scenario, defeated powers should demur unless the proposed treaty includes a full withdrawal to *antebellum* lines, as they should believe that the enforcement action has a high probability of returning all occupied territories with little additional cost to themselves. In fact, because *any* territorial gain would contradict the norm, defeated countries are emboldened to hold out for a full withdrawal and have little incentive to make concessions, as conceding on the border undermines the principle which is the key to returning any of the lost territory. The implication here is that the territorial integrity norm creates "issue indivisibility" (see chapter 1), and essentially closes the bargaining space.

In conflicts with *ex ante* contested borders, international enforcement should only become vigorous (military intervention or sanctions) if a victorious side has conquered territory substantially beyond what was initially in dispute. Still, defeated countries should demonstrate reticence to sign any peace deal that forfeits (*de jure*) territory lost in fighting. Although the defeated party may not be able to count on the international community to restore lost lands, should the defeated side sign a peace treaty it would end the controvertible nature of the conflict, making the norm fully

applicable to the conflict in the future. As a result, any future attempt to regain the lost territory militarily (if the defeated state becomes relatively stronger) will be far more costly and may even result in international military action against it, as the territorial integrity norm—and international intervention—will be in favor of the victor in defense of the new *status quo*.

For precisely that reason (to lock in gains), the conquering party has an incentive to sign a formal peace treaty with the defeated party. As was true for cases with *antebellum* recognized boundaries, in order to induce an agreement, the main leverage the winner has is to offer to return some portion of the territory in exchange for recognition of its sovereignty over the rest. The portion of territory it offers should correspond to the degree the victor is concerned about the future balance of power and the cost of continued conflict (including international sanctions, if any). Yet, because conquest was not a clear violation of the norm, the international community should take an equivocal stand, meaning that victors will be in less of a rush to sign a deal. Although formal annexation may not be recognized, victors are still likely to enjoy the fruits of *de facto* control of the conquered territory.

Regarding war termination, we can infer the following hypotheses:

H4: As the territorial integrity norm is more robustly enforced, states who have mutually recognized boundaries should be more likely to sign peace treaties than states who have *antebellum* contested boundaries, and should do so more quickly.

H5: As the territorial integrity norm is more robustly enforced, where peace accords are signed, they will be more likely to accord with international law – meaning it will either 1) require a return to *status quo antebellum* / previously recognized borders; or 2) refers the dispute to binding international arbitration.

When enforcement is uncertain

What would be the effect on war termination if we relax the assumption that the international community is a unitary actor, again raising the problems of diverging interests and collective action? As before, the most likely effect is to decrease the level of norm enforcement while increasing the level of uncertainty about how committed the international community will be to reversing conquest. After fighting has ended, even if the international community has not used force to reverse conquest, it may be unclear whether the international community will impose sanctions and how costly they will be. In addition, until the conflict is settled, this uncertainty will not reach resolution. Defeated countries may long continue to hold out hope for a change of heart among the great powers which could lead them to take more forceful action where it had previously been absent. Similarly, when sanctions have been imposed, it is unclear whether harsher sanctions will follow if the victor does not withdraw. The consequence of this uncertainty is that it should reduce the bargaining space by emboldening both sides. Because of the permanence of the concession, even defeated parties which appear abandoned by the international community might have reason for

eventual redemption. The victor, on the other hand, can continue to enjoy the fruits of *de facto* occupation until the international community raises the cost of that occupation where it no longer outweighs the benefits.

Chapter 4:

How Wars End

"Prohibiting state conquest also may have generated unintended effects."

—Tanisha Fazal (2007, p. 61)

This chapter aims to get at the core of the riddles which began this dissertation: why have peace treaties become increasingly rare over time? Moreover, when they are signed, why do they take (on average) so much longer than in the past? As I elaborated at length in chapters 1 and 3, I argue that as the territorial integrity norm became robustly enforced, it resulted in a shift in power at the bargaining table and made concessions more permanent. As a consequence, there has been a dramatic reduction in the number of wars ending in peace accords.

In this chapter, I test my theory and alternative hypotheses utilizing statistical tests of an original dataset of all interstate wars fought from 1816 until 2007. Of course, many other factors have also changed over time, and so I first address concerns about omitted variable bias by leveraging cross-sectional variation on whether states have a settled or disputed border *before* fighting began. In order to do this, I test the hypothesis derived from my theory:

H4: As the territorial integrity norm is more robustly enforced, states who have mutually recognized boundaries should be more likely to sign peace treaties—

and do so more quickly—than states who have *antebellum* contested boundaries.

I find that as the territorial integrity norm was robustly enforced, the status of borders increasingly matters, impacting the probability of reaching a peace accord: states who had settled boundaries *before* hostilities began were more likely to sign peace treaties—and to sign them more several times more quickly—than states with *ex ante* contested borders. Before the advent of this norm (i.e. before 1919), however, the gap was reversed: having settled boundaries actually reduced the likelihood of signing a peace accord (and took approximately 50 percent more time to sign).

In addition to examining the probability of reaching peace agreements, I address concerns of omitted variable bias by considering what else my theory would predict which alternative theories could not easily explain. In this regard, the territorial integrity norm should have altered the terms of peace as well.

H5: As the territorial integrity norm is more robustly enforced, where peace accords are signed, they will be more likely to accord with international law – meaning it will either 1) require a return to *status quo antebellum* / previously recognized borders; or 2) refers the dispute to binding international arbitration.

In this chapter, I find that indeed, historically, peace accords granted winners new territory; but under this norm, peace accords now generally return belligerents to

international (or *antebellum*) borders, or alternatively refer the dispute to third party arbitration. This change is particularly stark for wars where one side succeeded in capturing another's territory. In these circumstances, prior to 1919, less than 5 percent of treaties brought sides back to recognized or *antebellum* boundaries. This rate has climbed steadily as the norm has strengthened, and since 1970, over 90 percent of peace treaties in these conflicts sides back to recognized or *antebellum* boundaries.

In what follows, I lay out the empirical design, followed by the results and the analysis.

THE DATA

Dependent Variables

My main dependent variable for this study is whether countries signed a peace accord after they fought a war (H4). While seemingly straight-forward, that statement contains several challenges in order to create clear definitions and coding rules.

The first issue embedded in that statement is how should wars be represented in the dataset? I use the Correlates of War (COW) dataset of interstate wars as the basis of this dataset.[277] The COW project has defined a war as an armed conflict that involves "sustained combat, involving organized armed forces, resulting in a minimum of 1,000 battle-related combatant fatalities within a twelve month period," and "it must involve armed forces capable of 'effective resistance' on both sides."[278]

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[277] Sarkees and Wayman 2010.
[278] COW interstate codebook, p. 1.
 <http://www.correlatesofwar.org/COW2%20Data/WarData_NEW/Inter-StateWars_Codebook.pdf>.

To some extent, COW data has fallen out of fashion lately. Many researchers now favor Militarized Interstate Dispute (MID) data instead, most importantly because with under 100 interstate wars fought over the course of 200 years, analysis inevitably suffers from a very small number of observations. Moreover, because the dataset has been so widely analyzed, some argue that there are no degrees of freedom left. While these are both important points, they have problems of their own. First, although MIDs can provide many more observations, the vast majority are low-level threats and displays of force, frequently over very minor disputes (such as over fisheries; see Weeks and Cohen 2009). Only a very small subset of MIDs could really compare in any meaningful sense with full-fledged warfare if our question under consideration is post-conflict bargaining and making formal concessions. Second, because I have introduced both new independent and dependent variables, it would be false to suggest that there are no degrees of freedom left in the datasets I use here.

The second issue embedded in that statement "whether countries signed a peace accord after they fought a war" is how should we represent the outcome for a war? I define a peace accord as a written agreement where adversaries make formal concessions which resolve the most important (if not all) of the issues in contention, particularly regarding sovereignty over territory. This includes agreements where parties commit themselves to binding third party arbitration, as such a commitment means a state is ready (in theory) to relinquish its claim should the arbitrator decide against it. Sometimes states make these concessions as part of the initial cease-fire (in the Treaty of Guadalupe Hidalgo, which concluded the Mexican-American War, the

treaty was concluded even before fighting had ended). Sometimes it takes years or decades before such an agreement is signed. (The most extreme case in the dataset here being 45 years until the victors of World War II signed the "Two plus Four" Agreement which officially terminated claims between Germany and the Allies from World War II.) Finally, I also code as a peace deal conflicts which end by sides formally consenting to UN Security Council resolutions, but only if the resolution resolves the issues in dispute. For instance, in 1991, Saddam Hussein officially accepted all the terms of UN Security Council resolutions 686 and 687, in which the Council dictated terms for ending the Persian Gulf War of 1990-91. Although no formal peace treaty was signed in this case, Iraq made crucial formal concessions, such as reversing the formal annexation of Kuwait and relinquishing its claims to Kuwait.[279]

In contrast, I define a cease-fire (or truce) as a mutual decision by all relevant parties to end hostilities without any party formally conceding central political claims—particularly those relating to sovereignty over territory—even if an agreement requires sides to withdraw to certain lines of control. These agreements usually only include promises by the sides to refrain from using violence in the immediate future, but again, the key criteria is that *de jure* concessions are not made over the central issues. Cease-fires may be written, formal agreements (e.g. armistice agreements), unwritten or even unspoken understandings, or mutual acquiescence to calls by

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[279] In Fortna and Fazal's War Initiation and Termination (WIT) Project, which asks when such formal agreements are signed, these wars are not coded as having peace treaties.

international organizations to cease hostilities. Cases in this dataset are coded as cease-fires even where sides agree to establish and / or normalize diplomatic and economic relations, so long as no formal concessions are made over the central issues in dispute (as Argentina and the UK did eight years after the war over the Falklands ended in an Argentinean surrender).

In this dataset, I have operationalized this dependent variable in two ways. The first is as a dichotomous variable, coded as 1 if the belligerents signed a *peace treaty*, particularly before they fought another war (as they then become another, separate observation).

The second operationalization captures how long it takes for sides to reach an agreement. This is captured in a variable called "*elapse*," which is equal to the number of months from the time hostilities end (according to COW)[280] until sides sign a peace agreement. In cases where an agreement is signed before hostilities end (e.g. Mexican-American War), I have marked the variable as 1. This variable uses signature dates instead of ratification dates, because ratification processes are more heavily impacted by an array of domestic political processes which are to some degree exogenous to the question asked. This said, I only use agreements that are eventually ratified (if the constitutional system required it). Conflicts which never reach agreement are right

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[280] There were two cases where I found COW to be in error. 1) Fighting in the 1990-1 Gulf War ended on February 27, 1991, with the Safwan cease-fire agreement being signed on March 3, 1991. COW lists fighting as ending on April 11, 1991. 2) The Badme Border War (1998-2000), fought between Ethiopia and Eritrea, which led to the Algiers Peace Treaty on December 12, 2000. Hostilities ended on June 6, 2000, not December 12, 2000.

censored at December 2008. Unlike the dichotomous version, this variable uses any peace agreement a dyad eventually signs, even if another war is fought first.[281]

Of course, these two operationalizations are not identical. The second is based on an assumption that the same causes that would prevent sides from signing an agreement also cause them to take more time before signing an agreement. Thus, while my main results are based on Cox proportional hazards models which use *elapse*, I also run logit regressions on the dichotomous version as a robustness check.

A third issue with that statement "whether countries signed a peace accord after they fought a war" is that simply coding each war by whether or not a peace treaty was signed is problematic. One of the complicating factors is that multiple countries often fight in a single war—but by no means does every belligerent sign a peace accord afterwards. Another is that states sometimes fight multiple wars before signing a peace treaty, even if the fundamental issues in contention do not change.

An excellent illustration of the many problems in coding war termination is the 1967 Six Day War, fought between Israel on the one hand, and Egypt, Jordan, and Syria (with minor assistance from Iraqi forces as well).[282] At the end of this war, the Arab belligerents refused to enter peace negotiations with Israel.[283] Egypt would fight Israel again only two years later in the War of Attrition, and then again ally with Syria to fight Israel in the 1973 Yom Kippur War (aka October or Ramadan War). On

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[281] If more than one peace agreement is signed, I use the first one after the war is fought. See below for discussion of controls used to contend with the issues this operationalization raises.

[282] Oren, *Six Days of War*, pp. 186 and 226.

[283] Enshrined in the famous "Three Nos" of the Arab League's Khartoum Declaration: no negotiations, no peace, and no recognition of Israel. See Sela, Avraham, *The Decline of the Arab-Israeli Conflict: Middle East Politics and the Quest for Regional Order* (Albany: SUNY Press, 1997).

March 26, 1979, Egypt signed a full peace treaty with Israel. Jordan, for its part, never fought Israel in another war after 1967, although it waited until after the Palestinians signed the Oslo Accords in 1993 before signing a full peace treaty with Israel in 1994. While numerous rounds of negotiations were held between Syria and Israel, no agreement was ever concluded. So what is the optimal way to code the Six Day War?

In the dichotomous version, I have coded Jordan as signing a peace treaty, and Syria and Egypt as not. Instead, Egypt is only coded as having signed a peace treaty for the Yom Kippur War. In the *elapse* version, however, all of the five wars Egypt fought against Israel are marked as having the same date at which a peace treaty was signed.

For hypothesis 5, the dependent variable is whether a signed peace accord requires sides to either require a return to *status quo antebellum* / previously recognized borders or refers the dispute to binding international arbitration. The question of *antebellum* borders is often tricky, especially when dyads fight multiple wars. For instance, when Israel and Egypt fought the 1973 Yom Kippur War, the *antebellum* border went along the Suez Canal and did not correspond to the international boundary on the other side of the Sinai Peninsula, which had separated independent Egypt from the British Mandate. Here I have coded as 1 any treaty which required a country to withdraw to a line which had at any previous time in history been recognized as an international border, even if that was not the border immediately preceding the previous war. In cases where no such internationally recognized border had existed, I code the variable as 1 if the treaty required a state to

withdraw to pre-war (*antebellum*) borders and *recognized them as the new international border*. I have coded as zero what might be referred to as "borderline" cases, whereby a treaty declares sides commit to return to pre-war borders but include slight border modifications (almost always in favor of the victor). While a different version of this variable could have included major versus minor territorial adjustments, this option was not pursued because such a difference seemed inevitably to rest on an arbitrary decision on the coder's part. Finally, this dependent variable is coded as 1 in cases where the territorial elements of the dispute was referred to arbitration in the treaty where the treaty itself does not otherwise include a territorial concession.[284] For these tests of H5, I have created a different dataset where the unit of observation is no longer war-dyad, but rather "peace treaty-dyad", meaning I treat each treaty on a per-dyad basis.

All dependent variables employed here are from an original dataset (a minimal version of which can be found in Appendix A). As a first step, I began with various historical summaries of each war listed in the COW dataset in order to determine their conclusion. I then located any document which was signed at the end of a given interstate war in order to determine if it should be coded as a peace treaty or not. If it should be coded as a peace treaty, I then determine when it was signed and whether it required a return to *status quo antebellum* / previously recognized borders or referred the dispute to binding international arbitration. I undertook several measures to ensure

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[284] This affected three observations: the peace treaties signed between Britain and Persian in 1857; Honduras and El Salvador in 1980; and Ecuador and Peru in 1998; even when these cases are not included, the results are highly significant.

"quality control." For each peace treaty I created separate variables (included in the replication dataset) for the name of the treaty; the articles which include formal concessions over claims; quotations from those articles which demonstrate conclusively the document is a peace treaty (i.e. includes a formal concession), especially any article which discusses questions regarding sovereignty over territory; and provided full citations for each treaty text.

Several resources were particularly useful in this research. Clive Parry's (ed.), *Consolidated Treaty Series* (Dobbs Ferry, NY: Oceana Publications) monstrous 225 volume series includes just about every inter-state (and what COW refers to as "extra-state") agreement of any kind from 1661-1919. As it is indexed by party and date, a researcher who knows the name of the belligerents and dates of the wars fought can see if (and when) a particular dyad signed an agreement.[285] A second useful source is Alan Axelrod and Charles L. Phillips' two volume *Encyclopedia of Historical Treaties and Alliances*, which spans from ancient times until the present. While the encyclopedia does not include the full text of each agreement, they have made the full text of most treaties they cover available on the Facts on File website <http://www.fofweb.com>. Fred Israel's *Major Peace Treaties of Modern History 1648-1967* (1967) was likewise valuable for finding various treaties throughout the period in question. Two final sources that have been quite helpful are Yale University's Avalon Project <http://avalon.law.yale.edu> and the United Nations'

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[285] One drawback is that many treaties are in the original language. I thank Leyla Mutiu for her translation assistance.

Peacemaker website <http://peacemaker.un.org>, both of which had the full text of numerous treaties.

In order to help make certain that I did not miss any peace treaty, I also checked my results against the War Initiation and Termination (WIT) dataset (Fortna and Fazal). In addition to several small, nitpicky differences,[286] it is worth pointing out that I came to a different conclusion from these researchers regarding a significant number of wars (explained in depth in Appendix B).

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[286] For instance:

--There was a duplicate of the war between Guatemala and El Salvador instead of having Honduras as one of the belligerents.

--Jordan was marked as a participant in 1973 (it was not) and 1967, all three dyads were marked as having all been between Israel and Egypt (instead of one dyad for Syria and one for Jordan).

--The Treaty of Rapallo 1922 is between Germany and Russia, and is not connected to Latvian independence. Instead, there are two treaties entitled the "Treaty of Riga" – one ends Polish-Russian fighting and one ends Latvian war. The dates are different.

--In World War II, some countries are not included in the dataset though they sent forces while others are included who did not send any troops to fight, like Nicaragua and Haiti, who therefore cannot be considered belligerents.

Independent Variables

My first key independent variable (IV) is a binary variable coded as 1 if the dyad had *mutually settled borders* in the specified year.[287] Once the border has been fully settled, Owsiak codes the border as 1 from that point forward, even if a dispute should re-emerge. This variable is not included in regressions where the DV is terms of peace treaties that are signed, as the number of bordering states who sign treaties is too low to conduct reliable statistical analysis (n = 28). Consequently, for these regressions I include a dummy variable coded as 1 if the belligerents are neighbors (and zero otherwise).

My second key IV is the strength of the territorial integrity norm. Unfortunately, the only feasible way I have found to operationalize this norm is to compare time periods. As mentioned previously, the territorial integrity norm generally did not exist prior to the Covenant of the League of Nations—during the period I will refer to throughout as the Concert of Europe (1816-1918). During the League of Nations era, the norm was emerging, but its effect was quite limited. This changed following the conclusion of World War II, as the United States not only advanced this norm, but was willing to use its power to enforce it. The norm continued to crystallize during the intense discussions and debate surrounding UNSC Resolution

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[287] Owsiak 2012. The variable here is an updated version, supplied by Owsiak via correspondence. I have changed Owsiak's coding in several cases where it is indisputable that history disagrees:
--In 1960, Turkey accepted Cyprus's independence and borders when it became a guarantor of the 1960 Cypriot Constitution which marked its independence from British colonial rule.
--On October 4, 1963, Kuwait and Iraq signed an agreement whose first article reads: "The Republic of Iraq recognized the independence and complete sovereignty of the State of Kuwait with its boundaries as specified in the letter of the Prime Minister of Iraq dated 21.7.1932 and which was accepted by the ruler of Kuwait in his letter dated 10.8.1932." (*United Nations Treaty Series*, 1964, p. 328.)

242 in 1967. At the resolution's outset, the Security Council adopted the key phrase, "Emphasizing the inadmissibility of the acquisition of territory by war" language far more categorical and unambiguous than that of Article 2(4) of the UN Charter. This phrase would henceforth be repeated in numerous resolutions for other ensuing conflicts, and was more firmly established in international law with the adoption of UNGA Resolution 2625 (1970), which declared "No territorial acquisition resulting from the threat or use of force shall be recognized as legal."[288] Finally, the territorial integrity norm has reached its pinnacle in the post-Cold War era. This was, in part, due to the critical case of the United States leading the international community to reverse Iraq's 1990 invasion of Kuwait. It also had to do with the end of the Cold War, which frequently saw a conflict between upholding normative interests and the *realpolitik* of the Cold War conflict.

In order to capture this norm, I have used dichotomous variables for each period, with one iteration combining all observations from the UN period, and a second disaggregating the UN period into three. In all regressions reported here, I have used the *Concert of Europe* as the reference category.[289] There is a problem with this strategy, as regressions using the five dummy variables frequently dropped whole

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[288] UNGA Resolution 2625 (XXV). Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations UN Doc A/8028 (1970).

[289] As a robustness check, I have used the all pre-UN observations as the reference category, and results remain the same. When I use *League* as the reference category, the UN period remains significantly different, but the UN-border interaction effect does not quite maintain significance (p < 0.19), though the co-efficient remains in the same direction.

categories when looking at only neighboring dyads, as they perfectly predicted all of the observations in that period.

Finally, I then create interaction terms with the border variable with the different time periods. As the Concert of Europe is my reference category, and likewise I do not include its interaction effect.

Control Variables

The 1967 example demonstrates why I have chosen to use "war dyads" as my unit of observation instead of wars. However, this strategy is also plagued by a serious concern: of 311 war-dyad observations (derived from 93 wars), the median war has only 1 dyad, but nearly half of all observations are from four wars alone: the Seven Weeks War (18 observations), World War I (42), World War II (56), and Korea (24).[290] Besides the concern that just a handful of our 93 wars will drive all regression results while most others will have almost no statistical weight, the biggest problem is that whether or not dyads sign treaties is often not independent of whether other dyads in the same war sign a peace treaty. For instance, had South Korea and the United States signed a peace treaty with North Korea following the Korean War, it is likely the other belligerents would have been signatories to such an agreement as well. In order to contend with this problem I have created a control variable for *war fixed*

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[290] The Gulf War, Kosovo, Afghanistan, and Iraq could have been much higher as well, but the COW coding rules require that a country field at least 1000 soldiers or suffer 100 battle-related deaths in order to be included, and the contribution of many coalition partners in these wars fell below that number.

effects. For tests of H5 on the terms of peace (where the unit of observation is now "peace-dyad"), I use a similar control variable for *peace fixed effects*.

Another issue is that some dyads have fought multiple previous wars, whereas for some dyads, it is their first war. In order to address this problem I have created a count variable for *number of wars fought*. This count includes all wars that dyad fought since 1816, while ignoring how previous wars were terminated (i.e. in peace treaties or long-term cease-fires). At the same time, there might be an endogenous effect for multiple peace treaties.[291] To account for this I created a count variable for *number of previous peace treaties signed*. More importantly, because there will be unobserved effects specific to each dyad, I have adjusted the covariance matrix of the estimators by clustering all regressions by country-dyad (as opposed to by war or war dyad).[292]

Of course, many, many things may have changed since World War I, and so I use multivariable regression to control for these potentially confounding variables. As mentioned above, Tanisha Fazal (2013) has argued that the development of codified international law regarding *jus in bello* (law of war) means that a state's leaders and soldiers may be charged and tried for war crimes. Fazal tests her hypothesis using three operalizations, all of which have been incorporated here as controls. The first is *jus in bello*, which equals the number of international treaties governing the use of

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[291] In hazard models, this is referred to as multiple failure time data, where the failures are "ordered," meaning that the first failure is essentially similar for all subjects, and a second failure is similar to a second failure. The difference between this and "unordered failures" is the difference between patients who have a heart attack (ordered) versus patients who might get skin cancer followed by stomach cancer, or *vice versa* (unordered failure).

[292] Cleves 1999.

force in effect for that year beginning with the 1856 Declaration of Paris, as compiled by the International Committee of the Red Cross. Fazal's second operalization is "*mean ratifications*," which she defines (p. 712) as "the mean number of *jus in bello* treaties each dyad had ratified at the start of the conflict." The advantage of this variable is that it is dyad-specific, so that the cross-sectional variation within time periods mitigates the problems (such as multicollinearity) of having too many purely temporal IVs (like the territorial integrity norm or *Jus in Bello*).

Though once quite common during the 19th century, countries have almost never formally declared war since World War II (the two exceptions are Assam war between China and India in 1962 and the Bangladesh War between Pakistan and India in 1971). As Fazal argues, if a side has declared war, then the laws of war clearly apply and there should be no reason not to sign a peace treaty. To control for the possibility that the change in war initiation is connected to the change in war termination, I include Fazal's dichotomous variable, coded as 1 if one side officially *declared war*. Fazal defines this (p. 712) as "a public proclamation of a state's intention to engage in hostilities with another state that is issued according to the laws of the issuing state."

I attempt to control for several other things which have changed over the past century. (Fazal was quite comprehensive in her use of control variables, and so the controls employed borrow heavily from the WIT dataset compiled by Fazal and Fortna.) Since World War II, major powers no longer fight each other, so perhaps the end of great power war has reduced the likelihood of sides signing peace treaties. To

test this I include a dummy variable for "*Both Belligerents* are Major Powers" and a second for "*One Belligerent* is Major Power" (my reference category is that "neither belligerent is a major power").

Likewise, perhaps wars once were more likely to produce clear military victories[293] or see sides conquer more territory in the course of fighting. By almost all theoretical accounts, both of these variables should have a large effect on the likelihood of achieving a peace treaty and on the terms of peace. WIT's binary *Military victory* variable is coded as 1 if the war ended in a clear or extreme victory for one side, 0 if it ended in a draw or slight victory for one side. The variable *Territory captured during fighting* is a binary variable coded as 1 if territory changed hands during the course of fighting.[294] *Regime Change* is a dichotomous variable coded as 1 for a war which ended in a foreign power imposing a change of regime on another belligerent.[295] *State Death* is a binary variable coded as 1 for dyads where one party formally loses "control over foreign policy to another state" during or due to a war.[296]

With the number of democracies in the world growing over time, failing to account for this could lead to spurious correlation with other secular-trends, like the

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[293] Toft 2003 and Fortna 2009.

[294] The variable in WIT is a five-point scale, which starts at no territory being captured; the loss (or independence) of colonial possessions; changes in "small or unimportant bits of territory"; changes in "large or important" parts of sovereign territory; and an entire state being overrun. However, Fazal uses it in binary fashion and I follow her lead.

[295] Fazal bases this on Downes and Monten's list of foreign imposed regime changes (FIRCs), and then uses COW's list of interstate wars to determine which foreign imposed regime changes were the consequence of war.

[296] Fazal 2007 & 2013.

territorial integrity norm. Some previous authors have controlled for joint democracy[297] or joint polity,[298] but there is reason to believe that both measures are suboptimal. Precisely because previous literature has demonstrated that democracies do not fight—meaning there is no variation on this variable—joint democracy on its own is likely to create statistical kinks at the same time that it is unlikely to be informative. At the same time, it is possible that there is a different dynamic between democracies and autocracies than between two autocracies, which is lost by using "joint polity" scores. Thus I control for regime in these regressions using a binary variable to capture whether at least one state was a *democracy*.[299]

Perhaps it takes longer to reach peace because the *duration* of fighting too has changed over time. If we exclude the two world wars, then the average war during the Concert of Europe only lasted 264 days. During the League of Nations, the length of the average war reached 489 days, and while since the UN was founded wars last 553 days on average.[300] Shorter wars might leave less room in the mind of the vanquished about the nature of their defeat, and thus increase their willingness to make concessions demanded by the victor.

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[297] Owsiak 2012.

[298] Used by Fazal 2013.

[299] The cut-off I used to define democracy was +7 on the Polity VI scale. As a check, I reduced this to +6, finding very little impact. The variable suffered from a large number of missing values, and substantially reduced the number of observations. For almost all cases, however, while Polity might not have been able to determine a value, it was clear that neither country in the dyad was a democracy. The only exception here was Pakistan and India between 1947-1949.

[300] Author's calculations based on this dataset.

Finally, following Fazal's lead, I have included the *year fighting ended* as a check that this change is not the result of some other temporal trend which I may have failed to take into account.

For the tests which use a binary variable as the DV, I have used a simple logistic regression. This includes tests regarding whether a peace treaty had or had not been signed (H4) and whether or not a peace treaty was consistent with international law (H5). For tests using the "elapse" variable as the DV, I employ Cox proportional hazards regression. As mentioned above, for all tests I clustered by country-dyad, which automatically means robust standard errors are used. In many of these Cox models, I have included a dummy variable for the final peace treaty between Germany and the Allied powers (the "*Two plus Four*" Agreement), which is an extreme outlier in this sample, signed 45 years after hostilities ended. It is also an odd case in terms of spanning the League and UN periods and because part of the reason it took so long to reach was because German reunification was a central point of contention in the Cold War. This said, the results were barely affected by including this control.

Finally, in order to demonstrate that my key variables drive the regression results and not some fluke combination with certain control variables, each chart includes a series of model specifications. Each begins with a "core model" which only includes my variables of interest and the *war fixed effects*. A second model includes "*mean ratifications*" to test Fazal's theory. In results not reported here, I have run

these same models with *jus in bello*, finding similar results.[301] However, as suspected, these models suffer terribly from multicollinearity. A third model "with controls" then includes all control variables which do not substantially reduce the number of observations included in the regression. The fourth model then includes all controls. For the Cox regressions, the final model only includes those wars which eventually did lead to a peace treaty, again as a robustness check as to what is driving my results. Finally, in the models which only use neighboring countries, I do not include *number of previous peace treaties signed* because it is largely capturing the same variation as *mutually settled borders*.

ANALYSIS AND RESULTS

Hypothesis 4: Getting to Peace

Descriptive Statistics

It is best to begin with some descriptive statistics about my coding of the war termination variable. The best way to demonstrate some sort of face validity to my theory is to give the breakdown of the dependent variable by my two key independent variables—time period and borders. Below (Table 4-1), I have given a summary of the number of war dyads which end in a peace treaty as a proportion of the number of dyads which fought a war in that period. I have also broken this down by whether belligerents were neighbors; and amongst those which are, whether their common

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[301] My variables of interest remain highly significant and the coefficients remain roughly the same. *Jus in bello* is sometimes significant, but the coefficient is always in the wrong direction (meaning it makes peace more likely and quicker to sign, not less).

border was settled or disputed before hostilities began. Also, because (as discussed previously) some wars have many more dyads than others, I have also given a breakdown by war, coding a war as having a peace treaty if any dyad signed a treaty (on its own, as I mentioned previously, this could potentially be misleading, but here is used as a check on the use of unweighted dyads). Finally, in order to give a sense of how my coding differs from WIT, I present the same layout with their coding (Table 4-2).

Table 4-1: Number of wars that ended in peace treaties / total fought
(by war dyads)

	Concert of Europe	League of Nations	United Nations (1945-1969)	(1970-1990)	(1991-2007)
Overall dyads	98 of 119 (82%)	69 of 76 (91%)	4 of 44 (9%)	9 of 33 (27%)	12 of 30 (40%)
by war	32 of 39 (82%)	14 of 18 (77%)	3 of 12 (25%)	6 of 16 (38%)	4 of 9 (44%)
Not Neighboring	60 of 78 (77%)	50 of 54 (93%)	2 of 27 (7%)	3 of 15 (20%)	9 of 25 (36%)
Neighboring	38 of 41 (93%)	19 of 22 (86%)	2 of 17 (12%)	6 of 18 (33%)	3 of 5 (60%)
Amongst neighboring countries (i.e. with a common border):					
Contested	26 of 26 (100%)	9 of 11 (82%)	2 of 17 (12%)	4 of 10 (40%)	0 of 2 (0%)
Settled	12 of 15 (80%)	10 of 11 (91%)	0 of 0 (0%)	2 of 8 (25%)	3 of 3 (100%)

Table 4-2: Number of wars that ended in peace treaties / total fought,
WIT coding (by war dyads)

	Concert of Europe	League of Nations	United Nations (1945-1969)	United Nations (1970-1990)	United Nations (1991-2007)
Overall	91 of 117 (77%)	60 of 75 (80%)	2 of 42 (5%)	3 of 31 (10%)	2 of 29 (7%)
Not Neighboring	57 of 77 (74%)	44 of 55 (80%)	1 of 26 (4%)	0 of 13 (0%)	0 of 24 (0%)
Neighboring	34 of 40 (85%)	16 of 20 (80%)	1 of 16 (6%)	3 of 18 (17%)	2 of 5 (40%)
Amongst neighboring countries (i.e. with a common border):					
Contested	24 of 26 (92%)	7 of 9 (78%)	1 of 16 (6%)	2 of 10 (20%)	0 of 2 (0%)
Settled	10 of 14 (71%)	9 of 11 (81%)	0 of 0 (0%)	1 of 8 (13%)	2 of 3 (67%)

Even before we consider the regression tables, this breakdown alone shows the most critical trends in the data. The first is temporal: before World War II, most wars ended in peace treaties. The shift to cease-fires is actually most dramatic immediately following World War II, and over time, the percent of dyads that end in peace treaties rises modestly. This is not the case for the WIT coding, however. In their dataset, the percent of conflicts that result in a peace accord remains roughly the same throughout the UN period (about 7 percent).

The second trend is that this overall temporal trend seems to be somewhat contingent on whether belligerents have a contested or settled border before hostilities began. So that before World War I, belligerents who had contested borders before hostilities began were actually *more likely* to sign a peace treaty than those who had a settled border, but since the League of Nations, this trend has generally switched and

increasingly having an *antebellum* settled border increases the likelihood of signing a peace treaty.

Importantly, this is not because neighboring countries make up a larger or smaller percentage of wars fought than before. Neighbors were involved in almost as many wars (as a percent of all wars fought) as they had in the past, and similarly, neighbors with settled boundaries make up a similar percentage as in the past (see Table 4-3). (However, I argue in Brown forthcoming that once we take into account the total number of neighboring dyads with settled boundaries—which grew dramatically over the past century—we see that *the likelihood of going to war* does change.) This said, disaggregating the data suggests that neighbors actually fought more wars during the Cold War (perhaps related to decolonization), and fewer wars since.

Table 4-3: Number of wars fought (by war dyads)

| | Concert | League | United Nations | | |
			1945-1969	1970-1990	1991-2007
Not Neighboring	85	55	27	15	26
Neighboring	40	20	17	18	5
Neighboring as %	32%	27%	39%	55%	16%
Of countries who have a common border:					
Contested	26	9	17	10	2
Settled	14	11	0	8	3
Settled as %	35%	55%	0%	44%	60%

Regression Analysis

As described above, many things may have changed since World War II. To address the numerous possibilities, I ran a series of multiple variable regressions to see if other variables can explain the change in number of wars that end in peace treaties.

First, the results for every single model of each of the tests for H4 strongly support the initial contention of this dissertation: that the advent of territorial integrity norm has greatly reduced the likelihood of signing a peace treaty (Fig. 1; Tables 5 and 6 below; see also Tables 1C - 2C in Appendix C). Whether operationalized as three or five periods, these variables for the UN period are consistently negative and always statistically significant when compared to the Concert of Europe.[302] This held regardless of estimator, whether looking at all dyads or just neighboring dyads, and held whether I used this dataset or the WIT dataset. This said, while the coefficient for the League period is in the right direction, the difference with the Concert is not usually as large and not always as robust (which is in line with my theory).

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[302] In fact, when examining neighboring dyads (where n varied from 70-95) using the 3 or 5 dummy models, frequently the model seemed to work 'too well,' as certain categories were often omitted because they perfectly predicted success or failure. In order to overcome this problem, I have used the single ordinal variable for some of the charts or the three dichotomous variable version of the territorial integrity norm, as both prevent full categories from dropping from the analysis.
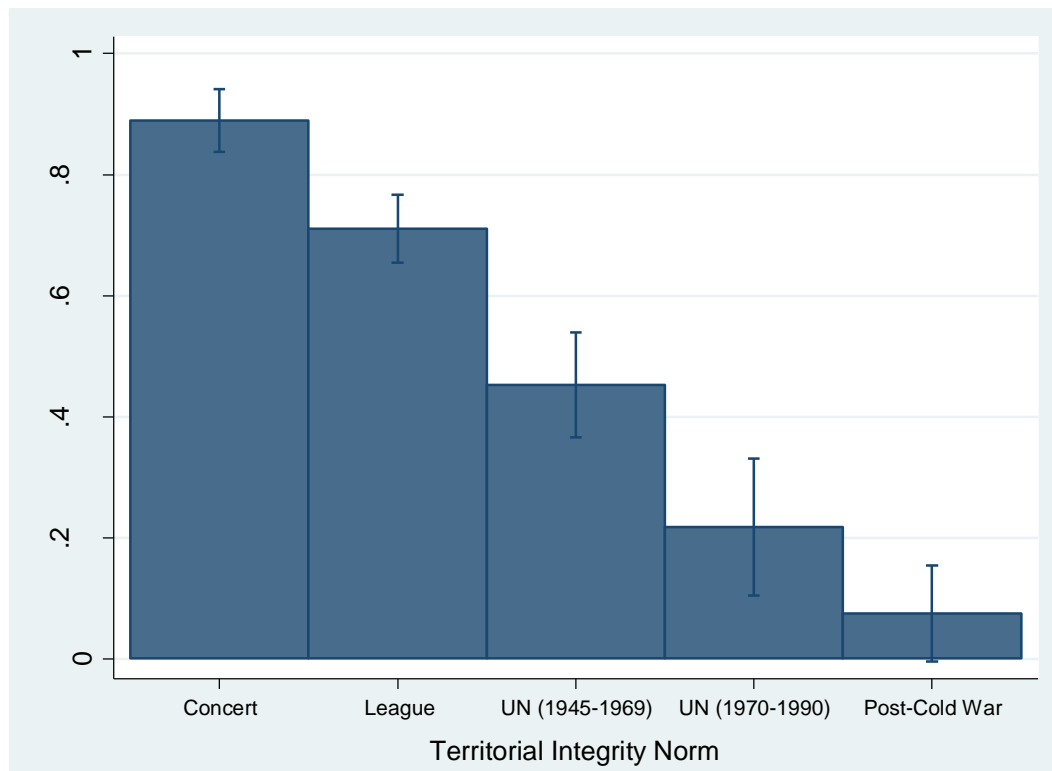
Figure 4-1: Probability of Signing Peace Accord over Time

So how much has the territorial integrity norm reduced the likelihood of reaching a peace deal? As seen in Figure 4-1, the likelihood of signing a peace accord (*ceteris paribus*)[303] was 89 percent for dyads who fought during the Concert of Europe, 71 percent for the League of Nations, 45 percent during the first part of the UN (1945-1969), 22 percent for the second part (1970-1990), and 8 percent during the post-Cold War era.

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[303] Controlling for military victory; territory acquired during fighting; *jus in bello* (mean ratifications); FIRCs; state death; democracy; whether one, both or none of the belligerents were great powers; whether belligerents were neighbors; how many previous wars they fought; how many peace treaties had been signed previously; war fixed effects; and duration of fighting. This model is the most biased against my findings—reducing the control variables only improves the results (i.e. makes the differences slightly bigger and more significant).

Likewise, as the territorial integrity norm has become more robust, it takes substantially longer for sides to get to the dotted line. Looking at all wars fought (Models 1-4 in Table 4-4), the time it took to reach a peace accord increased between 18 to 43 times (depending on model specification) for war dyads during the UN period as opposed to the Concert.[304] If we only look at wars where sides eventually signed a peace treaty, it still took adversaries 329 percent longer. The gap between the League of Nations period and the Concert was also substantial, as the rate of getting to an accord dropped by a factor of 5-7 (again, depending on model specification).

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[304] Table 4-5 shows the rate was reduced by 94.4 to 97.7 percent. The numbers here are the inverse of that, most easily calculated by exchanging the reference category from Concert to UN.

Table 4-4: Cox Proportional Hazards Regression, for all dyads
(DV = Months Elapsed Between End of Hostilities and Peace Treaty Signed)

VARIABLES	(1) Core	(2) Jus in bello	(3) With Controls	(4) All Controls	(5) Without Cease-fires
League of Nations	0.181***	0.205***	0.142***	0.162***	0.355***
	(0.0354)	(0.0425)	(0.0337)	(0.0525)	(0.0821)
United Nations	0.0557***	0.0433***	0.0231***	0.0355***	0.304**
	(0.0173)	(0.0162)	(0.0101)	(0.0187)	(0.180)
War fixed effects	1.025***	1.028***	1.020***	1.018***	1.004
	(0.00323)	(0.00422)	(0.00494)	(0.00489)	(0.00390)
Mean joint ratifications (jus in bello)		0.988			
		(0.0332)			
Number of wars fought		0.865*	0.830**	0.863*	0.916
		(0.0746)	(0.0729)	(0.0705)	(0.0792)
Number of previous peace treaties		1.620***	1.430***	1.398***	1.153
		(0.155)	(0.140)	(0.149)	(0.130)
'Two + Four' Agreement		0.311***	0.269***	0.322***	0.0641***
		(0.0689)	(0.0811)	(0.103)	(0.0300)
At least one side democracy			0.853	0.878	0.854
			(0.0836)	(0.103)	(0.126)
Territory captured during fighting			1.329**	1.161	1.406*
			(0.171)	(0.176)	(0.257)
Regime change (Downes)			0.649*	0.663	0.765
			(0.162)	(0.175)	(0.138)
State Death, excluding regime change to avoid double-count FIRCs			0.374***	0.392***	0.934
			(0.119)	(0.132)	(0.261)

Table 4-4: Cox Proportional Hazards Regression, for all dyads
(DV = Months Elapsed Between End of Hostilities and Peace Treaty Signed),
continued

VARIABLES	(1) Core	(2) Jus in bello	(3) With Controls	(4) All Controls	(5) Without Cease-fires
Both belligerents are major powers			1.235	1.206	2.038***
			(0.225)	(0.252)	(0.370)
One belligerent is major power			0.887	0.916	1.416**
			(0.109)	(0.135)	(0.231)
Year fighting ends			1.012*	1.011*	
			(0.00631)	(0.00627)	
Military victory				1.092	
				(0.206)	
Duration of fighting				1.000	
				(0.000101)	
At least one side officially declares war				0.946	
				(0.165)	
Are dyads neighbors?				1.255	
				(0.182)	
Observations	310	307	284	238	198

Robust seeform in parentheses
*** p<0.01, ** p<0.05, * p<0.1

Of course, no matter how many controls are employed, purely temporal operalizations of the territorial integrity norm will always be vulnerable to charges of omitted variable bias. What allays those concerns somewhat is the second key IV—whether belligerents had a settled border or not—as this varies across dyads more than across time. Importantly for the thesis advanced here, as predicted in H4, the effect of having a settled border—as opposed to a contested one—is contingent on time (Table

4-5 below; see also Table 4-3C in Appendix C). One surprisingly (but consistent) finding is that in the pre-WWI period, having a settled boundary actually was an obstacle to peace, reducing the rate by about half. By the time of the UN, however, the rate of concluding a peace treaty for belligerents with a settled border was somewhere between 224 and 310 percent greater, as compared to similar belligerents who had a contested border before hostilities began (*ceteris paribus*). If we only look at those dyads that would eventually sign peace treaties, these belligerents were 472 percent faster in reaching an agreement that similar belligerents with *ex ante* contested borders.

Table 4-5: Cox Proportional Hazards Regression, for neighboring dyads only
(DV = Months Elapsed Between End of Hostilities and Peace Treaty Signed)

VARIABLES	(1) Core	(2) Jus in bello	(3) Controls	(4) All Controls	(5) Without Cease-fires
Agreed Border (*antebellum*)	0.512**	0.485**	0.524**	0.542*	0.669
	(0.172)	(0.170)	(0.167)	(0.178)	(0.216)
League of Nations	0.136**	0.140**	0.138**	0.117**	0.837
	(0.107)	(0.119)	(0.106)	(0.0999)	(0.297)
United Nations	0.0261***	0.0235***	0.0223***	0.0212***	0.0341***
	(0.0174)	(0.0193)	(0.0176)	(0.0158)	(0.0326)
Interaction: League*Border	0.783	1.219	1.072	0.710	0.445*
	(0.668)	(1.057)	(0.829)	(0.993)	(0.191)
Interaction: United Nations*Border	2.246**	2.211*	3.100**	3.109**	4.720*
	(0.912)	(1.023)	(1.522)	(1.614)	(4.252)
Number of wars fought		0.907	1.075	1.107	1.203
		(0.117)	(0.140)	(0.146)	(0.212)
War fixed effects	1.018***	1.016*	0.967	0.966	1.008
	(0.00572)	(0.00848)	(0.0224)	(0.0226)	(0.00691)

Continued

Table 4-5: Cox Proportional Hazards Regression, for neighboring dyads only
(DV = Months Elapsed Between End of Hostilities and Peace Treaty Signed),
continued

VARIABLES	(1) Core	(2) Jus in bello	(3) Controls	(4) All Controls	(5) Without Cease-fires
'Two + Four' Agreement		0.168***	0.209**	0.273	0.0181***
		(0.0945)	(0.164)	(0.363)	(0.0165)
At least one side democracy			0.960	0.915	1.611
			(0.244)	(0.270)	(0.626)
Territory captured during fighting			1.007	1.004	0.926
			(0.205)	(0.220)	(0.282)
Regime change (Downes)			0.854	0.853	1.209
			(0.236)	(0.300)	(0.386)
State death, excluding regime change to avoid double-count FIRCs			0.515	0.730	1.279
			(0.438)	(0.602)	(0.834)
Both belligerents are major powers			0.870	1.119	1.543
			(0.803)	(1.042)	(0.596)
One belligerent is major power			1.092	1.086	1.795**
			(0.263)	(0.274)	(0.495)
Year fighting ends			1.066**	1.066**	
			(0.0308)	(0.0300)	
Military victory				1.026	
				(0.254)	
Duration of fighting				1.000	
				(0.000242)	
At least one side officially declares war				0.634	
				(0.189)	
Mean joint ratifications (jus in bello)		1.082			
		(0.0530)			
Observations	100	99	92	87	69

Continued on next page

Robust seeform in parentheses

*** p<0.01, ** p<0.05, * p<0.1

The strong consistency of these two IVs across model specification and operationalization stands in contrast to most of the other control variables. Few other variables were consistently significant, and some even changed signs across model specification. Interestingly, *Year fighting ended* is actually positively signed in the logit models and over 1 in the Cox models (and usually significant), meaning that as time has gone on, it is more likely for states to sign peace treaties and to do it slightly faster as time goes on—that is, once the effect of the League and UN are taken into account. As one might predict, *State Death* was negatively signed and significant in most models (when states die there usually is no longer an authority left to sign a peace treaty). While insignificant in the Cox models, whether one side was a *democracy* was negatively signed and significant in the logit models, meaning that dyads with at least one democracy are less likely to sign peace accords. However, this finding disappears once some of the control variables are taken out of the regression.

Regarding Fazal's international law operationalizations for *Jus in Bello* and *declared war*, in logit regressions of all war-dyads, I found similar results as those reported by Fazal; in fact, they became more robust once I included *League* and *United Nations* (Table 4-6 below). In logit models of neighboring dyads or the Cox models of all dyads, however, they were either insignificant or worked in the opposite directions—*Jus in Bello* actually increased the rate at which peace treaties were signed and *declared war* decreased the rate. *Joint Ratifications*, on the other hand, were not generally significant in any model (logit or Cox).

Table 4-6: Logistic Regression, for all / neighboring dyads
(DV = Peace Treaty Signed)

VARIABLES	(1) All Dyads with Controls	(2) With League + UN	(3) All Controls	(4) With League + UN	(5) Bordering Dyads	(6) With League + UN
Jus in Bello	-0.433**	-0.476***	-0.268	-0.406**	0.256	-0.541
	(0.197)	(0.178)	(0.184)	(0.188)	(0.468)	(0.539)
At least one side declares war	2.192***	1.123**	1.936***	0.992	-0.0418	-16.75***
	(0.465)	(0.565)	(0.560)	(0.615)	(0.483)	(1.700)
League of Nations		-5.109***		-5.200***		-40.33***
		(1.275)		(1.398)		(4.980)
United Nations		-11.09***		-10.55***		-48.15***
		(1.347)		(1.618)		(6.438)
War fixed effects	0.0239	0.0943***	0.0146	0.0865***	-0.0562	0.116
	(0.0161)	(0.0187)	(0.0159)	(0.0193)	(0.0515)	(0.0707)
Number of wars fought	-0.166	-0.330	-0.0662	-0.286	0.375	-0.170
	(0.200)	(0.330)	(0.222)	(0.323)	(0.269)	(0.518)
Number of previous peace treaties	-0.408	-0.403	-0.454	-0.429	-0.264	-0.630
	(0.325)	(0.496)	(0.340)	(0.460)	(0.640)	(0.840)
Are dyads neighbors?	0.206	0.382	0.536	0.570		
	(0.420)	(0.445)	(0.433)	(0.449)		
At least one side democracy	-0.403	-0.828*	-0.869**	-0.903*		
	(0.362)	(0.481)	(0.441)	(0.495)		
Territory captured during fighting	1.080***	1.188**	1.023**	1.307**		
	(0.406)	(0.493)	(0.418)	(0.522)		
Regime change (Downes)	-0.928*	-1.697***	-1.144**	-1.534***		
	(0.523)	(0.615)	(0.500)	(0.587)		
State death, excluding regime change	-0.300	-1.796**	-0.634	-1.672**		
	(0.697)	(0.831)	(0.705)	(0.808)		

Table 4-6: Logistic Regression, for all / neighboring dyads
(DV = Peace Treaty Signed), continued

VARIABLES	All Dyads with Controls	With League + UN	All Controls	With League + UN	Bordering Dyads	With League + UN
Both belligerents are major powers	0.640	-0.752	1.220	-0.449		
	(0.706)	(1.342)	(1.070)	(1.397)		
One belligerent is major power	-0.127	-0.706	0.245	-0.492		
	(0.340)	(0.472)	(0.394)	(0.503)		
Military victory			1.346***	0.238		
			(0.402)	(0.583)		
Duration of fighting			0.000108	0.000347		
			(0.000309)	(0.000332)		
Agreed Border (*antebellum*)					1.803*	-16.98***
					(0.960)	(1.338)
Interaction: League*Border						31.07***
						(2.111)
Interaction: United Nations*Border						16.66***
						(2.083)
Constant	0.457	-0.756	-0.938	-1.274	5.372	32.80
	(0.917)	(1.076)	(1.074)	(1.102)	(3.562)	
Observations	282	282	238	238	98	96

Robust standard errors in parentheses

*** p<0.01, ** p<0.05, * p<0.1

Hypothesis 5: The Terms of Peace

Descriptive Statistics

While H4 discusses the likelihood of arriving at peace, H5 suggests that if the territorial integrity norm is responsible for this change in war termination, we should see this manifested in the terms of peace as well. Table 4-7 (below) shows the breakdown of this, which on its face, strongly corroborates the theory. While the vast majority of treaties signed during the Concert of Europe saw changes in territory, this began to change during the League of Nations period, and has continually increased since the founding of the United Nations.[305]

Table 4-7: Summary of Terms of Peace (by treaty dyad)

	Sides return to *ante- bellum* borders	Arbitration	Treaties accord with int'l law	Total treaties signed	As percent
Concert of Europe	10	1	11	92	12.0%
League of Nations	32	1	33	69	47.8%
1945-1969	1	1	2	4	50.0%
1970-1990	8	0	8	10	80.0%
1991-2007	10	2	11	13	84.6%

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[305] While Tanisha Fazal kindly supplied the unpublished WIT variable for territorial exchanges in peace treaties, we have coded these so differently that they are not especially comparable. The WIT project asks whether there were changes in the treaty from the status quo before the treaty was signed, whereas I ask whether a treaty requires sides to return to international boundaries. So, for instance, while WIT codes the Egyptian-Israeli peace treaty as leading to a change in territory, I code it as not, because in it Israel agreed to return to the international boundary. Given these differences, I have not used her data in this analysis.

Regression Analysis

The regressions run here (Fig. 2 and Table 4-8) strongly support this dissertation's initial thesis, that there has been a change in the terms of peace and it is connected to the increasing strength of the territorial integrity norm. In all models, peace treaties signed during the United Nations were far more likely to return states to international (or *antebellum*) boundaries or send disputes to binding arbitration than was the case during the Concert of Europe. Moreover, as predicted, this change continues to grow over time. As illustrated in Figure 4-2 (below), the likelihood of a peace treaty according to international law (*ceteris paribus*)[306] was only 12 percent for dyads who fought during the Concert of Europe, jumping to 37 percent for the League of Nations, and then to 67 percent during the first part of the UN (1945-1969). By the second part of the UN (1970-1990) that had grown to 88 percent, and 97 percent during the post-Cold War era. Even if we discount arbitration and only examine whether treaties return states to international (or *antebellum*) boundaries, the results are essentially the same (see Table 4-4C).[307]

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[306] Controlling for territory acquired during fighting; *jus in bello* (mean ratifications); FIRCs; state death; democracy; whether one, both or none of the belligerents were great powers; whether belligerents were neighbors; how many previous wars they fought; how many peace treaties had been signed previously; treaty fixed effects; the year fighting concluded; whether one party declared war; and duration of fighting. I have not included military victory and duration because they reduce the number of observations, but including them does not change results.

[307] The exception being where *jus in bello* is included, which as discussed below, creates enormous problems of multicollinearity. As mentioned, in models where I expand the number of observations by eliminating all other control variables, the territorial integrity norm is significant while *joint ratifications* is not. When run with *jus in bello*, the territorial integrity norm is close to significant ($p < .175$) while *jus in bello* is ($p < .785$).
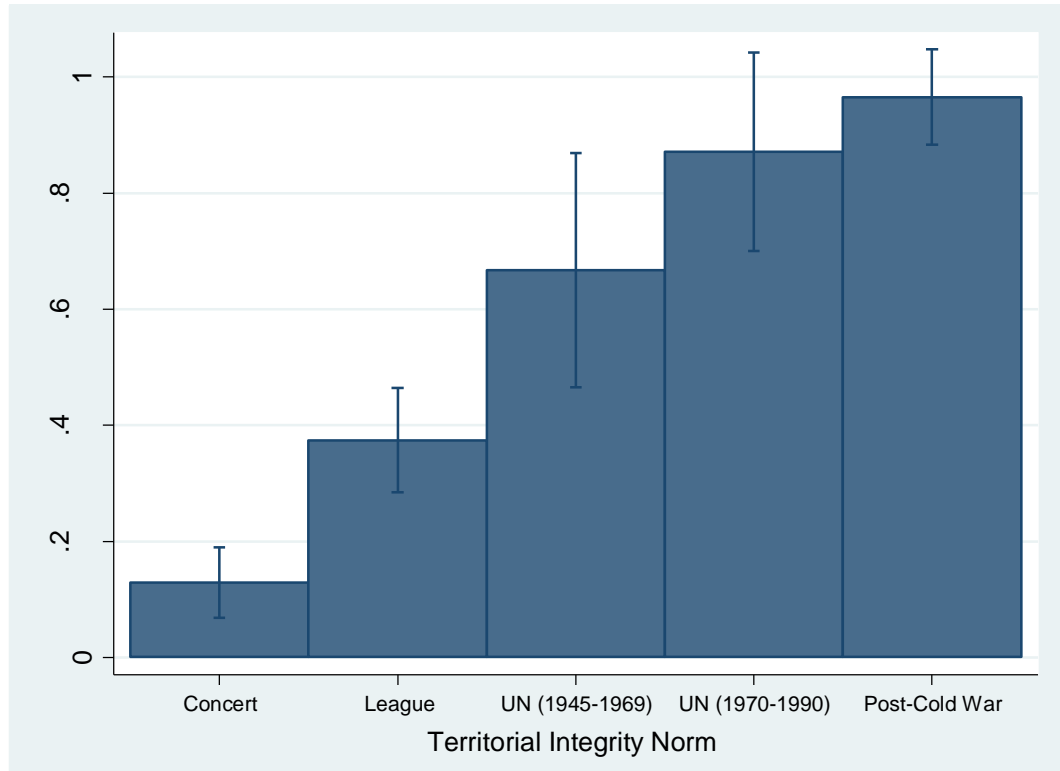
Figure 4-2: Do Peace Treaties Accord with International Law

Table 4-8: Logit regressions for Dyads Who Signed Peace Treaty
(DV = Treaty Accords with International Law)

VARIABLES	(1) Core	(2) Jus in bello (1)	(3) Jus in bello (2)	(4) With Controls	(5) All Controls
League of Nations	1.625***	2.488***	2.770***	3.520***	0.912
	(0.405)	(0.515)	(0.545)	(0.708)	(0.868)
UN1: War concludes Between 1946-1969	1.905*	3.265**	4.387***	4.710***	6.038**
	(1.041)	(1.346)	(1.456)	(1.568)	(2.593)
UN2: War concludes Between 1946-1969	3.404***	5.295***	6.320***	6.194***	7.205**
	(0.921)	(1.714)	(1.876)	(1.630)	(3.500)
Post-Cold War	4.348***	7.990***	8.915***	9.880***	8.842***
	(1.321)	(2.982)	(2.789)	(3.804)	(2.733)
Treaty fixed effects	-0.0267**	-0.0434**	-0.0336**	-0.0260	0.00118
	(0.0127)	(0.0203)	(0.0155)	(0.0172)	(0.0181)
Number of previous peace treaties		-0.116	-0.0265	0.150	-0.406
		(0.370)	(0.360)	(0.470)	(0.612)
Number of wars fought				0.170	0.206
				(0.350)	(0.631)
At least one side democracy				0.882**	-0.216
				(0.448)	(0.557)
Territory captured during fighting				-1.922***	-1.651
				(0.646)	(1.040)
Regime Change (Downes)				0.0349	0.947
				(0.882)	(1.251)
State Death, excluding regime change to avoid double-count FIRCs				-0.861	0.291
				(1.400)	(1.044)
Both Belligerents are Major Powers				-2.741**	1.442
				(1.287)	(1.182)

Table 4-8: Logit regressions for Dyads Who Signed Peace Treaty
(DV = Treaty Accords with International Law), continued

VARIABLES	(1) Core	(2) Jus in bello (1)	(3) Jus in bello (2)	(4) With Controls	(5) All Controls
One Belligerent is Major Power				-0.329	3.750***
				(0.407)	(1.414)
Year Fighting Ends				-0.0387***	-0.0192
				(0.0123)	(0.0229)
Military Victory					0.127
					(0.789)
Duration of fighting					-0.00130
					(0.000843)
Declaration of war			0.178		0.838
			(0.423)		(1.190)
Are dyads neighbors?					1.119
					(0.827)
Joint ratifications mean		-0.575**			-0.0783
		(0.224)			(0.334)
Jus in bello			-0.361**		
			(0.163)		
Constant	-0.980*	0.886	0.392	72.54***	31.83
	(0.554)	(1.105)	(1.148)	(23.71)	(42.41)
Observations	188	185	184	180	136

Robust seeform in parentheses
*** p<0.01, ** p<0.05, * p<0.1

A final observation: as seen in Model 4 in Table 4-9 above, when *territory was captured during fighting*, it significantly reduced the likelihood that a peace treaty (if signed) accorded with international law, suggesting that victors tend to keep some of the territory they conquer. Digging deeper, however, it turns out that this effect—like the effect of having mutually recognized borders—is contingent on time. When this variable is interacted with the territorial integrity norm, an interesting result occurs. As

shown in Figure 4-3 (below; see also Table 4-5C),[308] during the Concert of Europe, when one side captured an enemy's territory (*ceteris paribus*)[309] only 1.9 percent of the time did those treaties (if signed) bring sides back to *antebellum* boundaries. During the League of Nations, that rose to 20 percent. In the immediate aftermath of the UN's founding (1945-1969), this climbed to 65 percent and to 92 percent between 1970-1990. During the post-Cold War era, in cases where territory was captured, fully 99 percent of the time it did not matter, as belligerents who captured territory and signed peace deals returned to *antebellum* lines. The effect is nearly identical in strength and statistical significance, regardless of controls added or whether the dependent variable is only "returning to the international border" or also includes referrals to third party arbitration (i.e. the treaty "accords with international law"). This is yet further evidence of the territorial norm at work in setting the terms of peace settlements.

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[308] In these regressions, the dummy variables get dropped due to predicting perfectly all of the observations in that period. To overcome this, I have used an ordinal variable for the **territorial integrity norm**, where Concert equals 0, the League equals 1, the years 1945-1969 equal 2, the years 1970-1990 equal 3, and the post-Cold War era (1990-2007) equals 4. I then create an interaction effect with this variable.

[309] Controlling for territory acquired during fighting; *jus in bello* (mean ratifications); FIRCs; state death; democracy; whether one, both or none of the belligerents were great powers; whether belligerents were neighbors; how many previous wars they fought; how many peace treaties had been signed previously; treaty fixed effects; the year fighting concluded; whether one party declared war; and duration of fighting. I have not included military victory and duration because they reduce the number of observations, but including them does not change results.
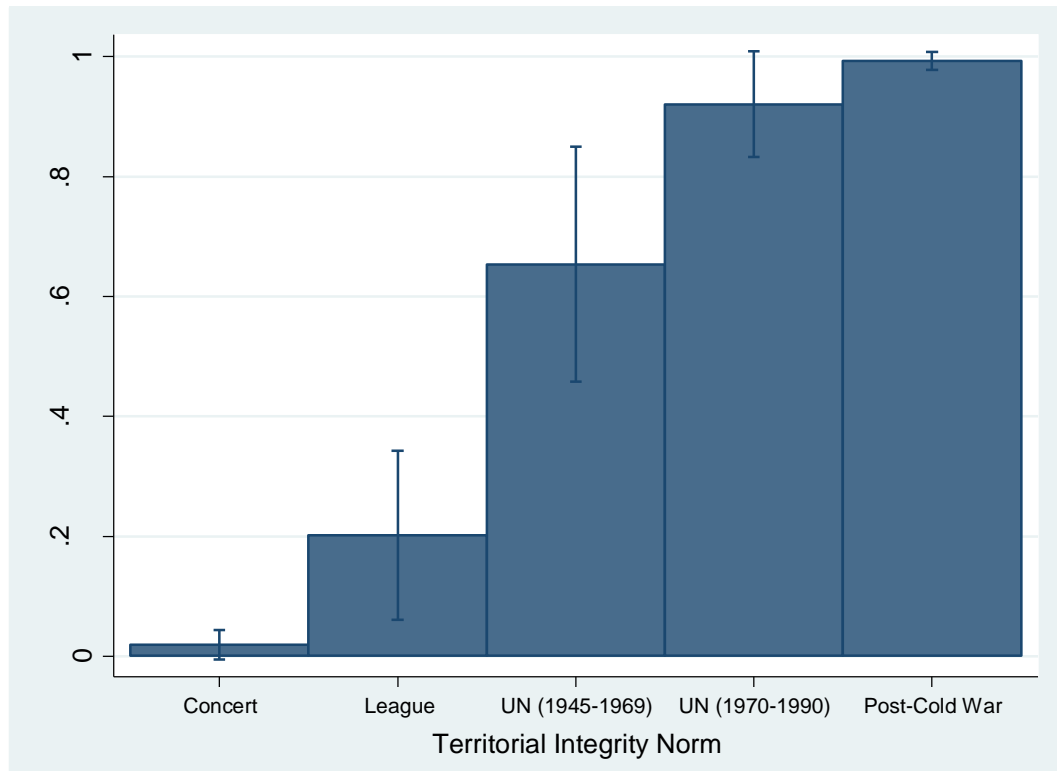
Figure 4-3: Effect of Capturing Territory over Time

CONCLUSION

The results here strongly support the main contentions of this thesis. The analysis here strongly supports the argument that as the territorial integrity norm has become more robust, it has reduced the overall likelihood of peace treaties being signed. However, this effect is highly contingent on the *antebellum* status of borders. In cases where borders had always been contested, this effect was even stronger than the overall effect for all war dyads. On the other hand, the overall effect of the territorial integrity norm was substantially mitigated for war dyads who possessed a recognized international boundary before fighting began.

This analysis also demonstrates that the territorial integrity norm has affected the terms of peace treaties. As the norm has become more robust, when treaties are signed, they are far more likely to bring belligerents back to international boundaries (or *antebellum* boundaries where recognized borders had not existed), or at a minimum, to settle the dispute via binding arbitration. Finally, it has shown that the norm has also greatly attenuated the effect of a victor acquiring land by force of arms. Whereas historically territorial gains from war would have led to border altercations in the victor's favor, since World War II, most treaties no longer allow winners to maintain their conquests.

Portions of this chapter (4) are part of the forthcoming article "The Intended and Unintended Consequences of the Territorial Integrity Norm." The dissertation author was the primary (sole) investigator and author of this paper.

Chapter 5:

How Wars Begin

This chapter sets out to test a number of claims I have made in chapter 3 about the effect of the territorial integrity norm on war initiation. While its proponents had hoped the norm might prevent the outbreak of war *writ large*, I argued that the norm's effect should impact differently countries who maintained contested boundaries when compared with those with settled and recognized borders. My argument is essentially an interaction effect: the effect of a cross-sectional variable (dyads with contested versus recognized borders) is contingent on a second (strength of the norm). Thus, I anticipate finding that the cross-sectional difference in borders should matter greatly when the norm is in effect but not when there is no such norm. These are formalized in hypothesis 1:

> H1: As the territorial integrity norm is more robustly enforced, states which have mutually recognized boundaries will be less likely to go to war:
> c) than states who have contested boundaries;
> d) than states who had mutually recognized boundaries when the norm is less robustly enforced.

Moreover, I argued that when the norm governing these matters is "the right of conquest," that the decision to go to war should essentially depend on material factors:

balance of forces, alliances, and potential gains in territory (with some territory being more valuable than others). As with H1, therefore, we should see cross-sectional variation being dependent on temporal variation.

> H2: As the territorial integrity norm is more robustly enforced, differentials in the balance of forces will be less likely to impact the probability that states with mutually recognized boundaries will go to war
>
> c) than states who have contested boundaries;
>
> d) than states who had mutually recognized boundaries when the norm is less robustly enforced.

Finally, I argued that potential uncertainty regarding norm enforcement creates a third possibility for norm violations: states may believe that an unequivocal infraction of the norm will be costly, but not necessarily enough so that it reverses their conquest (that is to say that force will not be used and even if sanctions are imposed, the price would be sufferable). Even if the initiator realizes that annexing the conquered territory would not be recognized, if the material gains of *de facto* possession are high enough, then it might be willing to bear the brunt of diplomatic isolation and sanctions. In such an environment, if one state attacks another seeking to conquer territory—despite having settled boundaries—the initiator must believe the likely costs of international enforcement would be offset by the benefit of the territory it seeks to annex. This means that a violator must have some cause to believe

enforcement will not be maximal and that the potential gain is particularly high. For instance, when the territory in question possesses resources that provide high rents (e.g. oil) or provide extreme strategic benefits (e.g. militarily advantageous geography; access to a naval port).

> H3: When the enforcement of the territorial integrity norm is less certain, the more valuable the weaker state's territory, the more likely will it be for two states with mutually recognized boundaries to go to war.

RESEARCH DESIGN

Dependent Variable

For these tests, I employ a cross-sectional, time-series design on country-dyad year observations for all politically-relevant non-directed dyads from 1816-2001. However, because the tests employed here use a variable for whether or not neighboring countries had a settled border, the dataset functions as if it were only contiguous dyads. The base of this dataset was generated using Bennett and Stam's program EUGene.[310]

Throughout, the main dependent variable is based on the Correlates of War (COW) dataset version 4.0 (2010), and is a dichotomous variable coded 1 for country-dyad years where an interstate war was initiated and 0 otherwise. I chose this strategy because the theory I advance in chapter 3 only postulates that countries will have less

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[310] Bennett and Stam 2000.

incentive to go to full scale war against their neighbor because they can no longer anticipate capturing territory. By focusing on war instead of MIDs, my concern was that many low-level threats and skirmishes—which make up most of the MID data—might be driven by a somewhat different dynamic.

The problem with relying solely on full scale wars for a dataset with over 18,000 observations[311] is that the event in question (full-scale war) is extremely rare, with only 64 cases for neighboring countries.[312] One strategy to contend with this has been to use rare events logit (see discussion below). A second strategy, used as a robustness check, has been to expand the number of positive cases by looking at MIDs with high death tolls. Thus, in addition to a "War" DV (based on COW, so battle-related death tolls exceed 1000), I also created a DV for highly lethal MIDs (death tolls exceed 251, and include wars), and yet another with a lower threshold (at least 26 killed). This increased the number of positive cases to 75 and 312 respectively. Finally, to demonstrate that these essentially arbitrary cut-offs are not driving results, I also checked all MIDs (a sort of robustness check on a robustness check), which brought the number of positive cases to 1104.[313]

One concern to be addressed with any of these variables is whether to code as 1 all dyads who experience a war (or MID) in a given year (an approach sometimes employed), or to focus solely on the dyad which sparked the conflict in the first place.

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[311] When looking at all dyads, there are over 98,000 observations. But only 18,099 of those were neighbors who share a land border with each other.
[312] As will be discussed below, the number is lower than that in the chapter 4 data (about 35 fewer cases) because this only includes those dyads who were neighboring.
[313] These are just neighboring dyads. The full dataset includes 129 dyads who were involved on the first day of a war, 147 highly lethal MIDs, 521 with mid-range death tolls or higher, and 2089 MIDs.

Here I have chosen the second approach, fearing both false positives and unequal statistical weighting for wars. In other words, what I seek to test is whether two states will start fighting in order to alter the territorial *status quo*. Whether a country gets drawn into a conflict initiated by its allies is determined by a somewhat different set of factors, as is the question of how many years the war continues. For instance, in the 1990-1 Gulf War, over 30 countries joined in the coalition to oust Saddam Hussein's army from Kuwait, including neighbors such as Syria. Yet almost none of these countries had a direct dispute with Saddam over *their* territory, rather they took part in a UN-sanctioned war to restore Kuwait's sovereignty. As a result, the 1990-1 Gulf War is only coded as a 1 in 1990 for the Iraqi-Kuwaiti dyad. Likewise, due to fear of giving long wars undue statistical weight, I only code as 1 years where a war was initiated (so that in 1991, the Iraqi-Kuwait dyad is excluded from the regression). Thus for all years where a war is ongoing, or for dyads which were not part of the initiating dyad but which became involved in the war at a later date, the variable has been coded as "." so as to exclude the observation from the regression.

Independent Variables

As in chapter 4, my first key independent variable (IV) is a binary variable coded as 1 if the dyad had mutually *settled borders* in the specified year.[314] Once the border has been fully settled, Owsiak codes the border as 1 from that point forward. One potential concern is that there may be a selection effect at work with this variable. Specifically, some dyads seem to be "born" into recognized borders. For example, when Libya becomes independent in 1951 its border with Egypt is immediately settled. In contrast, other neighbors begin their relationship as independent states with a territorial conflict and either resolve them (like Egypt and Israel, who both accepted the International Court of Justice ruling on Taba in 1988, thus settling the final outstanding border dispute) or maintain disputed borders throughout (like Syria and Israel). In order to address this potential concern, I have run my tests in two ways. The first model for each test includes all settled borders (14,196 dyad-years out of 18,099 potential dyad-years), whereas the second model only compares those dyads who had a disputed border and resolved it (101 disputes were resolved, with 6,242 dyad-years out of 10,145 total) versus those who never resolved their dispute (3903 dyad-years for both models).

My second key IV is the strength of the territorial integrity norm. As in chapter 4, I operationalized this norm using dichotomous variables for each period, with the *Concert of Europe* as my reference category.[315] Here as well, I have two

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[314] Owsiak 2012. The variable here is an updated version, supplied by Owsiak via correspondence.
[315] Regressions here did not suffer from the problems of perfect prediction, and hence the ordinal version of the variable was unnecessary.

operalizations. The first using three time periods (the Concert, the League of Nations, and the UN), and a second using five time periods (where the UN period is disaggregated into three: 1945-1969, 1970-1990, and the post-Cold War era, 1990-2001. I then create interaction terms with the border variables (both versions) with the different time periods. When using dummy variables, the Concert of Europe is my reference category, and likewise I do not include its interaction effect.

In order to test H2, I created *CINC ratios* between neighboring states, normalized using the natural logarithm. CINC is the abbreviation for Composite Index of National Capability, a standard measure of military power from the COW project which is based on annual values for total population, urban population, iron and steel production, energy consumption, military personnel, and military expenditure of all state members.[316] Here I anticipate that before World War I, these ratios should have a stronger impact on war initiation, regardless of the status of borders. With the norm in effect, however, this ratio should not matter for pairs with settled borders though it may very well for pairs with contested borders.

This said, as mentioned in chapter 3, my theory is agnostic about how this CINC ratio should impact war initiation. It could be that the realists are correct, meaning "might made right": stronger states would attack their weaker neighbors because they could anticipate territorial gains if victorious.[317] Quantitatively, this means that the larger the CINC ratio, the more likely we should be to see war. On the other hand, one of the leading rationalist theories for war onset argues that the reason

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[316] Sarkees and Wayman 2010.
[317] The classic statement on this is found in the neo-realist theory purported by Waltz (1979).

for war is uncertainty or misperception about who will emerge victorious.[318] In which case, we might anticipate the opposite: as dyads reach parity, the likelihood of war should grow, because larger gaps reduce uncertainty about who would win a war.

However, as the territorial integrity norm is more stridently enforced, stronger states had less incentive to attack their weaker neighbors because they faced higher international costs (diplomatic, sanctions, military intervention) for attempting to acquire territory through force of arms. Although CINC ratios may become less important over time, my theory predicts that this change will be much more drastic for dyads with settled borders more than those with contested borders.

Testing this proposition is a bit tricky, as it involves a triple interaction effect: 1) CINC ratios are contingent on 2) whether borders were settled, and these are contingent on whether 3) the norm was robust. However, triple interaction effects are notoriously difficult to meaningfully interpret, and so to test this I have subdivided the sample, with one set of results including all those neighboring states where borders were settled versus all those where borders were not settled, and here test the interaction between CINC and time period. As before, I also test for selection effects.

In order to test H3, I imported variables from Haber and Menaldo 2011, who created an original dataset covering 168 countries from 1800 to 2006. The authors gathered data on oil, gas, coal and metal production, and additional data on oil reserves. They then generate four different measures of resource abundance: Fiscal Reliance on Oil, Gas, and Minerals; Total Oil Income Per Capita; Total Fuel Income

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[318] Blainey 1988 and Stoessinger 1973; Fearon 1995 argues that the uncertainty is derived from "private information with an incentive to misrepresent."

Per Capita; and Total Natural Resource Income Per Capita. While a per capita measurement is appropriate for testing hypotheses regarding the "resource curse," I had no theoretical reason to believe that income resource per capita should matter more than absolute resource income when considering the opportunity cost of capturing territory. (In terms of difficulty in conquest, population itself is already factored into CINC scores.) After converting the total resource income per capita into absolute values, I then created a variable *Resource Income of Weaker State*, which is equivalent to the total resource income of the state of a dyad with the smaller CINC score.[319]

Testing hypothesis 3 requires comparing the difference in certainty of enforcement for dyads who would be constrained by the territorial integrity norm. As a result, I ran the regressions only for dyads with settled borders, as those with contested borders should not be constrained, regardless of period. Furthermore, I discard all observations from the Concert of Europe period, using the League of Nations period as my reference category.

Control Variables

To begin, although already accounted for to some degree by CINC ratios, I control for whether a *major power* was involved in the dyad. I also include a time

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[319] Out of concern that CINC scores include factors that might be endogenous to the resource revenue, I also tried using CINC's military personnel measure instead to determine which was the weaker state. Results are nearly the same, although if there was a difference, this second operalization led to slightly more significant results. Still, I decided to use CINC scores because it is a more standard representation of military power.

count for how many years both states have been members of the international system since 1816 (*dyad duration*), as new states might raise more issues to fight over than well-established ones, especially considering that this analysis only looks at neighboring states. As there are many more states born after World War II than previously, this might bias results.

Besides the dyadic balance of forces (captured with the CINC ratios), alliances should play an important part in the decision to use force. Here I control for this by using *S-scores*[320] which calculates the correlation of two states' alliance portfolios (by rank order), including defensive pacts, pacts of neutrality, ententes, and states with which there are no alliances. S-scores are considered more complete than Kendall's tau-b,[321] a competing measure, because the correlation calculations include both the presence and absence of an alliance. Here I have used the global computation of the weighted version, which includes the military strength of the allies, not just the number of alliances.

Another factor which we might expect to play a role in war onset is regime type, as democracies generally do not fight each other.[322] With the number of democracies in the world growing over time, failing to account for this could lead to spurious correlation with other secular-trends, like the territorial integrity norm. While

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[320] Signorino and Ritter 1999. S-scores provided by EUGene.
[321] Used by Bueno de Mesquita 1975 and 1981.
[322] On the "the democratic peace theory," see Doyle 1983, Lake 1992, Ma'oz and Russett 1993, Dixon 1994, Bueno de Mesquita and Siverson 1995, Schultz 2001, Huth and Allee 2002, and Bueno de Mesquita et al 2003.

previous authors have controlled for joint democracy[323] or joint polity,[324] there is

reason to believe that both measures are suboptimal. Precisely because previous

literature has demonstrated that democracies do not fight—meaning there is no

variation on this variable—joint democracy on its own is likely to create statistical

kinks at the same time that it is unlikely to be informative. At the same time, it is

possible that there is a different dynamic between democracies and autocracies than

between two autocracies, which is lost by using "joint polity" scores. Thus I control

for regime in these regressions using a binary variable to capture whether at least one

state was a *democracy*.[325]

There may also be systemic factors which have changed over time which could

also explain changes in war onset. Here I have re-created Fazal's (2013) *jus in bello*

variable to capture changes in the international law of war. Second, I include a *system*

concentration variable,[326] which measures the concentration of power in the system

and a variable measuring the *number of great powers* in the system,[327] as this also

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[323] Owsiak 2012.

[324] Fazal 2013.

[325] The cut-off I used to define democracy was +7 on the Polity VI scale. As a check, I reduced this to +6, finding very little impact.

      The variable suffered from a large number of missing values, and in fact reduced the number of wars by about a third. For almost all cases, however, while Polity might not have been able to determine a value, it was clear that neither country in the dyad was a democracy. The only exception here was Pakistan and India between 1947-1949.

[326] Singer, Bremer, and Stuckey 1972.

[327] Singer and Small 1966, via EUGene.

correlates with the territorial integrity norm.[328] Finally, I control for the *number of states in international system*, as defined by COW system membership.[329]

To test my dichotomous dependent variable, I employ a two types of logit regressions. The first is a generalized estimating equation (GEE) logit regression. The GEE model is built specifically for the analysis of time-series cross-sectional data and allows us to account for dependence within panels.[330] Each GEE model is run with an exchangeable correlation structure. The standard errors are clustered by country-dyads to account for the contemporaneous correlation of errors that exist because of the non-independence of observations within panels. I control for serial autocorrelation in the GEE logit regression test by including cubic polynomial time count variables counting years since a state had a previous war.[331]

The main drawback to using GEE logit is that the dependent variable here is a very rare event—only 64 dyad-years are coded as 1 out of 18,099 country-dyad years for neighboring countries. As King and Zeng (2001) have pointed out, in such instances, there is a risk of severely underestimating the probability of such rare events. In order to address this concern, I also ran all models using rare events logit regression, again clustering the standard errors by country-dyad. The results turned out

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[328] Including these variables in the same regression increases the variance inflation factor (VIF) for the model substantially, but does not affect the results for my key variables (namely the interaction effects).
[329] Singer, Bremer, and Stuckey 1972, via EUGene.
[330] Zorn 2001.
[331] Carter and Signorino 2010. In results not reported here, I have also controlled for time by using Ma'oz's count of "peace years", which uses MIDs instead of full scale wars. The results were slightly more positive for my variables of interest, but because I believe the "no war" count variable is the standard way to approach these issues, I have only reported those results. When testing MIDs, the cubic polynomials were based on this variable.

nearly identical, except for tests of H3. To avoid repetition, I simply report the rare events logit results.[332]

Finally, I put these various controls together in several different models, combining variables by similar sorts of motivations. The first is a core model, where I only include controls for auto-correlation. In the second model I control for the balance of forces between the two countries: CINC ratios and alliances. The third model includes dyadic duration and whether at least one was a major power. The fourth model then considers systemic variables: number of states in the system and concentration of power in the system. A fifth model includes controls for whether one state or more are democracies and *jus in bello*. The final model includes all of these controls together, except for those whose variance inflation factor (VIF) value is over 50 (although at no point did high VIF levels alter any of the results of my variables of interest).[333]

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[332] I chose this instead of the GEE model only because Stata can produce "relogit" results many time quicker than it does the GEE results. The only time I use GEE results is when I test MIDs, because there it is no longer a very rare event (for all MIDs, a positive event occurs over five percent of the time).

[333] This occurred when any three or four were included in the same regressions: concentration of power in the system, number of great powers, number of states in the system, and *jus in bello*. As a result, I did not include great power variables from these regressions and *number of states* from the "all controls" regressions. *Nota bene*: I include cubic polynomials in all regressions, as those inherently have very large VIF values.

RESULTS AND ANALYSIS

Hypothesis 1

The results of these tests generally support hypotheses H1a and H1b. As the territorial integrity norm has become robustly enforced, states who have mutually recognized boundaries are, in fact, less likely to go to war than states who have contested boundaries (H1a). During the UN period, the average country-dyad who had settled boundaries had a 0.12 percent chance of being involved in a war in any given year. Controlling for other factors, that chance rose to 1.2 percent for any given year if the neighbors had disputed borders—meaning the risk was ten times greater. Moreover, this difference was significant at the $p < 0.001$ level (see Table 5-1). During the League of Nations, there also was a statistically significant difference between dyads with a contested and settled border, but the difference was somewhat smaller (0.26 percent rising to 1.06 percent, or roughly four times greater) and less statistically significant ($p < 0.1$). During the Concert of Europe, there may have been a difference, but it was not statistically significant ($p < 0.333$).

Table 5-1: Impact of Borders and Power, by Period
(Rare Events Logit Regression, DV=War Onset)

VARIABLES	(1) Concert of Europe (1816-1918) War Onset	(2) Concert of Europe (1816-1918) All Controls	(3) League of Nations (1919-1945) Select Controls	(4) League of Nations (1919-1945) All Controls	(5) United Nations (1945-2001) Select Controls	(6) United Nations (1945-2001) All Controls
Agreed Border (antebellum)	-0.778	-0.897	-1.506**	-1.247*	-2.178***	-2.058***
	(0.663)	(0.927)	(0.669)	(0.745)	(0.480)	(0.523)
CINC Ratio (ln)	-0.757***	-0.854***	-0.0476	-0.123	-0.177	-0.183
	(0.264)	(0.242)	(0.190)	(0.147)	(0.110)	(0.120)
S-Score (Alliances)		0.447		-1.972		1.064
		(0.712)		(1.770)		(0.917)
Jus in bello		0.0757		-0.0152		-0.113
		(0.190)		(0.512)		(0.168)
At least one side democracy		0.359		-0.858		1.347**
		(0.785)		(1.223)		(0.533)
At least one side major power		1.226**		0.338		
		(0.590)		(0.623)		
Dyadic duration		-0.0217		0.00672		0.0100
		(0.0136)		(0.0133)		(0.0103)
System Concentration		0.878		12.87		-1.425
		(15.64)		(8.970)		(7.656)
Time since last war	0.0357	0.0454	-0.00352	-0.0286	-0.178***	-0.153**
	(0.0606)	(0.0553)	(0.0925)	(0.106)	(0.0559)	(0.0649)
Time (squared)	-0.00159	-0.00137	-0.000473	-5.95e-05	0.00491**	0.00419*
	(0.00198)	(0.00194)	(0.00191)	(0.00218)	(0.00228)	(0.00229)
Time (cubed)	1.54e-05	1.35e-05	4.77e-06	2.47e-06	-3.82e-05	-3.43e-05
	(1.58e-05)	(1.57e-05)	(9.85e-06)	(1.16e-05)	(2.46e-05)	(2.43e-05)
Constant	-3.655***	-4.380	-3.817***	-6.068*	-2.638***	-2.703
	(0.464)	(6.005)	(1.061)	(3.635)	(0.454)	(3.650)
Observations	3,680	3,680	2,135	2,135	11,049	10,781

Robust standard errors in parentheses.

*** p<0.01, ** p<0.05, * p<0.1

Of course, it is problematic to compare time periods (as H1b seeks to test) using separate regressions. When we compare periods in the same regression using an interaction effect, the first finding is that during the Concert of Europe (the reference category), there is no statistically significant difference between countries with settled or contested borders (see Figure 5-1 and Table 5-2). We also see that if there is a difference in terms of the onset of war between periods, it is not necessarily because the Concert of Europe was more war-prone. Although also not significantly significant in most models, if there is a difference between time periods, there actually appear to be more interstate wars taking place during the League and UN than previously *if neighbors have disputed borders*. On the other hand, particularly during the UN, countries with settled borders were far less likely to go to war than had been the case during the Concert of Europe (the League of Nations period is rarely statistically significant, although the coefficient is in the anticipated direction).
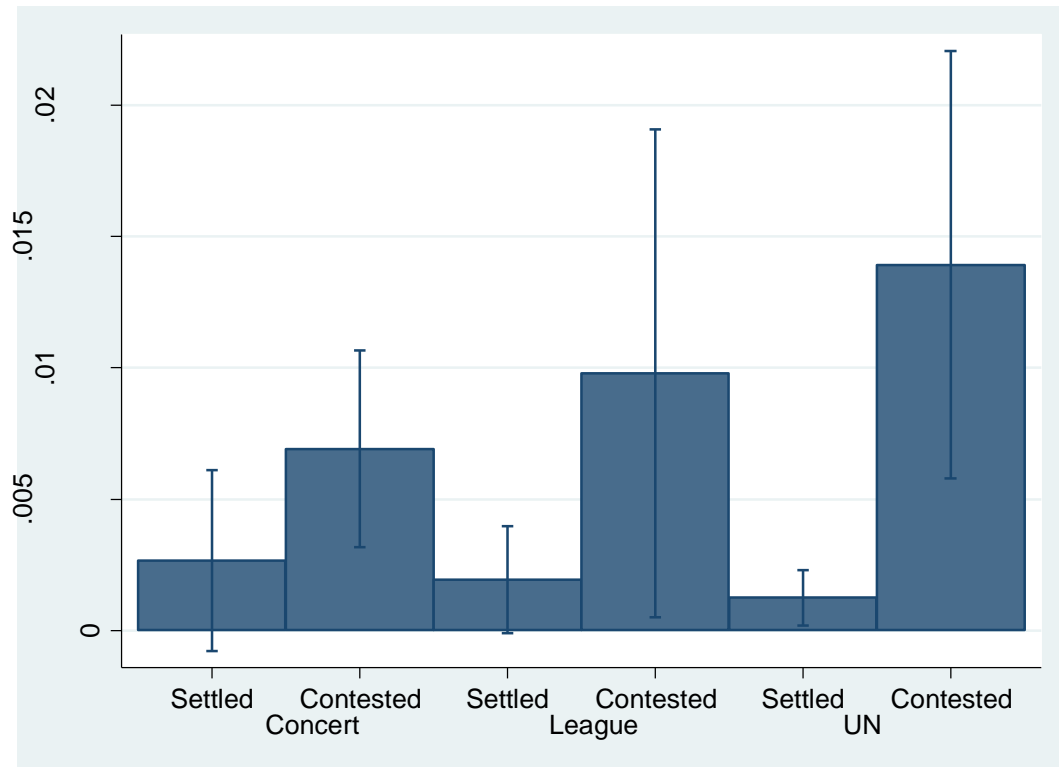
Figure 5-1: Impact of Borders over Time

Table 5-2: Impact of Borders Over Time, Comparing Periods
(Rare Events Logit Regression, DV=War Onset)

VARIABLES	(1) Core Model	(2) Realpolitik	(3) Realist Dyad	(4) Systemic	(5) Democracy	(6) All Controls
Agreed Border (antebellum)	-0.617	-0.645	-0.779	-0.584	-0.671	-0.855
	(0.570)	(0.568)	(0.596)	(0.551)	(0.586)	(0.639)
League of Nations	0.384	0.408	0.507	0.336	0.616	0.405
	(0.516)	(0.504)	(0.493)	(0.594)	(0.575)	(0.657)
United Nations	0.574	0.579	0.707*	0.661	1.109	0.771
	(0.413)	(0.401)	(0.392)	(0.719)	(0.792)	(0.909)
Interaction: League*Border	-0.717	-0.671	-0.576	-0.664	-0.863	-0.688
	(0.863)	(0.872)	(0.876)	(0.879)	(0.902)	(0.925)
Interaction: UN*Border	-1.808**	-1.750**	-1.612*	-1.800**	-1.663**	-1.427*
	(0.739)	(0.753)	(0.825)	(0.721)	(0.726)	(0.835)

Continued

Table 5-2: Impact of Borders Over Time, Comparing Periods
(Rare Events Logit Regression, DV=War Onset), continued

VARIABLES	(1) Core Model	(2) Realpolitik	(3) Realist Dyad	(4) Systemic	(5) Democracy	(6) All Controls
CINC Ratio (ln)		-0.287***	-0.338***	-0.273**	-0.307***	-0.352***
		(0.0978)	(0.102)	(0.106)	(0.116)	(0.106)
S-Score (Alliances)		-0.326	0.308			0.458
		(0.378)	(0.450)			(0.439)
At least one side major power			0.866**			0.798*
			(0.415)			(0.413)
Dyadic duration			-0.00238			-0.000113
			(0.00610)			(0.00594)
System Concentration				7.201		4.658
				(6.312)		(4.706)
Number of States in Intl System				0.00335		
				(0.00844)		
Jus in bello					-0.0789	-0.00489
					(0.0752)	(0.106)
At least one side democracy					0.733**	0.720*
					(0.359)	(0.394)
Time since last war	-0.0495*	-0.0492*	-0.0495	-0.0440	-0.0353	-0.0381
	(0.0289)	(0.0290)	(0.0316)	(0.0290)	(0.0281)	(0.0300)
Time (squared)	0.000592	0.000617	0.000674	0.000533	0.000361	0.000411
	(0.000682)	(0.000681)	(0.000682)	(0.000681)	(0.000623)	(0.000634)
Time (cubed)	-2.11e-06	-2.31e-06	-2.70e-06	-1.99e-06	-1.12e-06	-1.43e-06
	(4.38e-06)	(4.32e-06)	(4.33e-06)	(4.34e-06)	(3.79e-06)	(3.92e-06)
Constant	-4.098***	-3.383***	-4.046***	-6.281**	-3.667***	-5.874***
	(0.286)	(0.368)	(0.498)	(2.449)	(0.339)	(1.803)
Observations	17,549	16,570	16,570	16,828	16,828	16,570

Robust standard errors in parentheses

*** p<0.01, ** p<0.05, * p<0.1

The first major conclusion, therefore, is that as opposed to previous research,[334] the value of a recognized boundary is not consistent. Instead, settled borders are only clearly significant inhibitors to conflict in later periods. To quantify this difference, if one were to compare identical pairs of neighbors, both pairs having settled borders, the pair during the Concert of Europe would be 113 percent more likely to initiate a war than a similar pair during the UN (0.267% vs. 0.125% per dyad-year). At the same time, if those pairs had a disputed border, then the difference would actually work in the opposite direction: the UN pair would be 101 percent *more likely* to find itself involved in a war than a similar pair during the Concert of Europe (1.391% vs. 0.692% per dyad-year).

Importantly, Table 5-3 shows that this difference is not due to the selection effects issue discussed previously, as most models produce similar results when we take out those borders which were never contested.[335] Table 5-4 shows that there is a similar effect for MIDs on all levels, and as with full-scale wars, this difference holds even when taking selection effects into account (see also Table 3D in Appendix D).

There is one problem for H1 from the results of these tests: the effect for the UN era seems to be driven particularly by the period following World War II (1946-1969). As Table 5-5 shows, the difference of having a border during the 1970-1989 period compared to the Concert of Europe was not statistically significant in any model (though the coefficient remained in the same direction), while some models did show a significant difference for the post-Cold War era. When considered in isolation

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[334] Owsiak 2012; Schultz 2013; Gibler 2012?.
[335] For the model including democracy and *jus in bello*, $p < 0.101$.

from other periods (as in Table 5-1 above; see Tables 1D and 2D), states with settled borders probably are less likely to be involved in wars during this period, but the difference is still not significant (p < 0.159; p < 0.658 with all controls). Here again, the difference is significant for the post-Cold War era at the p < 0.05 level for most models.

Regarding the control variables, the only variable that was consistently significant throughout model specification was when one of the two states (or at least one state) was a democracy. These dyads were always much more likely to go to war than dyads where both were autocracies or both democracies, confirming the findings of Quackenbush and Rudy (2009), which cast grave doubt on the "monadic peace theory."

Table 5-3: Impact of Borders and Power, Addressing Selection Effects
(Rare Events Logit Regression, DV=War Onset)

VARIABLES	(1) Core Model	(2) Realpolitik	(3) Realist Dyad	(4) Systemic	(5) Democracy	(6) All Controls
Agreed Border (antebellum)	-0.390	-0.340	-0.376	-0.272	-0.453	-0.507
	(0.704)	(0.664)	(0.721)	(0.661)	(0.725)	(0.829)
League of Nations	0.326	0.335	0.376	0.361	0.589	0.530
	(0.508)	(0.502)	(0.497)	(0.713)	(0.602)	(0.765)
United Nations	0.516	0.502	0.546	0.763	1.279	1.314
	(0.405)	(0.402)	(0.385)	(0.986)	(0.824)	(1.045)
Interaction: League*Border	-0.873	-0.959	-0.910	-0.962	-1.107	-1.028
	(1.066)	(1.067)	(1.092)	(1.090)	(1.113)	(1.179)
Interaction: UN*Border	-1.453*	-1.694*	-1.649*	-1.613*	-1.420	-1.477
	(0.847)	(0.898)	(0.960)	(0.835)	(0.864)	(1.010)

Table 5-3: Impact of Borders and Power, Addressing Selection Effects
(Rare Events Logit Regression, DV=War Onset), continued

VARIABLES	(1) Core Model	(2) Realpolitik	(3) Realist Dyad	(4) Systemic	(5) Democracy	(6) All Controls
CINC Ratio (ln)		-0.396***	-0.416***	-0.356***	-0.411***	-0.460***
		(0.111)	(0.129)	(0.118)	(0.126)	(0.136)
S-Score (Alliances)		-0.135	0.0686			0.410
		(0.407)	(0.459)			(0.471)
At least one side major power			0.328			0.341
			(0.431)			(0.416)
Dyadic duration			-0.00305			0.000456
			(0.00672)			(0.00652)
System Concentration				9.408		3.483
				(7.216)		(5.898)
Number of States in Intl System				0.00886		
				(0.0103)		
Jus in bello				-0.0585	-0.121	-0.106
				(0.108)	(0.0804)	(0.126)
At least one side democracy					1.160***	1.256***
					(0.326)	(0.330)
Time since last war	-0.0908**	-0.0870**	-0.0845**	-0.0809**	-0.0647*	-0.0569
	(0.0377)	(0.0398)	(0.0419)	(0.0379)	(0.0375)	(0.0383)
Time (squared)	0.00182*	0.00178	0.00179	0.00166*	0.00129	0.00110
	(0.00103)	(0.00118)	(0.00117)	(0.00100)	(0.000974)	(0.00106)
Time (cubed)	-1.09e-05	-1.12e-05	-1.12e-05	-1.00e-05	-7.59e-06	-6.63e-06
	(7.36e-06)	(9.25e-06)	(9.24e-06)	(6.96e-06)	(6.54e-06)	(7.82e-06)
Constant	-3.825***	-3.129***	-3.317***	-6.782**	-3.333***	-4.938**
	(0.248)	(0.369)	(0.464)	(2.840)	(0.318)	(2.154)
Observations	9,732	9,020	9,020	9,282	9,282	9,020

Robust standard errors in parentheses
*** p<0.01, ** p<0.05, * p<0.1

Table 5-4: Impact of Borders on MIDs,
Comparing Periods (GEE Logit Regression)

	(1)	(2)	(3)	(4)	(5)	(6)
	DV: Very Lethal MIDs		DV: Medium+ MIDs		DV: All MIDs	
VARIABLES	Core	All Controls	Core	All Controls	Core	All Controls
Agreed Border (antebellum)	-0.143	-0.217	-0.171	-0.119	-0.112	-0.239
	(0.486)	(0.513)	(0.362)	(0.378)	(0.208)	(0.192)
League of Nations	0.356	0.507	0.701***	0.834***	0.513*	0.307
	(0.441)	(0.508)	(0.212)	(0.280)	(0.269)	(0.266)
United Nations	0.169	0.411	0.786***	1.090**	1.002***	0.520*
	(0.323)	(0.699)	(0.210)	(0.428)	(0.162)	(0.274)
Interaction: League*Border	-1.173	-1.157	-0.970**	-0.948**	-0.441	-0.417
	(0.802)	(0.828)	(0.452)	(0.480)	(0.345)	(0.319)
Interaction: UN*Border	-1.296**	-1.181*	-0.890**	-0.931**	-0.815***	-0.730***
	(0.611)	(0.632)	(0.397)	(0.410)	(0.231)	(0.223)
CINC Ratio (ln)	-0.180*	-0.223***	-0.119**	-0.123**	-0.175***	-0.158***
	(0.0946)	(0.0857)	(0.0545)	(0.0560)	(0.0451)	(0.0431)
S-Score (Alliances)		0.642		0.474*		-0.289
		(0.404)		(0.284)		(0.181)
At least one side major power		0.785**		0.202		-0.217
		(0.386)		(0.279)		(0.196)
Dyadic duration		-0.00367		-0.00328		0.00430***
		(0.00418)		(0.00259)		(0.00162)
System Concentration		-1.553		-0.547		-0.892
		(4.102)		(2.575)		(1.622)
Jus in bello		-0.0334		-0.0293		0.0272
		(0.0816)		(0.0467)		(0.0256)
At least one side democracy		0.248		-0.0850		0.0889
		(0.316)		(0.211)		(0.127)
Time (years since last MID)	-0.341***	-0.347***	-0.321***	-0.326***	-0.148***	-0.146***
	(0.0819)	(0.0845)	(0.0361)	(0.0359)	(0.0120)	(0.0114)

Table 5-4: Impact of Borders on MIDs,
Comparing Periods (GEE Logit Regression), continued

VARIABLES	(1)	(2)	(3)	(4)	(5)	(6)
	DV: Very Lethal MIDs		DV: Medium+ MIDs		DV: All MIDs	
	Core	All Controls	Core	All Controls	Core	All Controls
Time (squared)	0.0136***	0.0140***	0.0110***	0.0114***	0.00336***	0.00315***
	(0.00449)	(0.00470)	(0.00161)	(0.00161)	(0.000367)	(0.000353)
Time (cubed)	-0.000159**	-0.000166**	-0.000105***	-0.000109***	-2.02e-05***	-1.86e-05***
	(6.76e-05)	(7.18e-05)	(1.99e-05)	(2.01e-05)	(2.90e-06)	(2.78e-06)
Constant	-3.448***	-3.454**	-2.647***	-2.751***	-1.906***	-1.387**
	(0.266)	(1.556)	(0.146)	(1.018)	(0.155)	(0.598)
Observations	17,327	17,069	17,327	17,069	17,327	17,069
Number of cdyad	314	314	314	314	314	314

Robust standard errors in parentheses

*** p<0.01, ** p<0.05, * p<0.1

Table 5-5: Impact of Borders over Time, Comparing Five Periods
(Rare Events Logit, DV=War Onset)

VARIABLES	(1) Core Model	(2) Realpolitik	(3) Realist Dyad	(4) Realist Systemic	(5) Democracy	(6) All Controls
Agreed Border (antebellum)	-0.606	-0.639	-0.771	-0.568	-0.648	-0.825
	(0.574)	(0.570)	(0.599)	(0.552)	(0.584)	(0.638)
League of Nations	0.386	0.412	0.502	0.475	0.786	0.532
	(0.516)	(0.503)	(0.491)	(0.664)	(0.661)	(0.713)
UN1: 1946-1969	0.933**	0.860**	0.959**	1.183	1.590	1.173
	(0.416)	(0.408)	(0.400)	(0.841)	(0.975)	(1.050)
UN2: 1970-1989	0.205	0.231	0.408	1.081	1.258	1.103
	(0.552)	(0.548)	(0.537)	(1.374)	(1.269)	(1.307)
Post-Cold War (1990-2001)	0.548	0.730	0.779	1.814	2.024	1.747
	(0.661)	(0.658)	(0.662)	(1.671)	(1.626)	(1.708)
Interaction: League*Border	-0.724	-0.676	-0.580	-0.667	-0.886	-0.697
	(0.863)	(0.871)	(0.876)	(0.877)	(0.904)	(0.925)
Interaction: UN (1945-1969)*Border	-2.977**	-2.833**	-2.673**	-2.854**	-2.818**	-2.545**
	(1.188)	(1.188)	(1.230)	(1.187)	(1.176)	(1.241)
Interaction: UN (1970-1989)*Border	-0.848	-0.837	-0.747	-0.938	-0.772	-0.579
	(0.871)	(0.900)	(0.960)	(0.871)	(0.861)	(0.965)
Interaction: Post-Cold War*Border	-1.840*	-1.892*	-1.670	-1.996*	-1.837*	-1.557
	(1.098)	(1.094)	(1.149)	(1.072)	(1.106)	(1.172)
CINC Ratio (ln)		-0.281***	-0.329***	-0.274**	-0.305**	-0.348***
		(0.100)	(0.106)	(0.109)	(0.119)	(0.110)
S-Score (Alliances)		-0.351	0.265			0.443
		(0.386)	(0.459)			(0.444)
At least one side major power			0.832*			0.754*
			(0.431)			(0.431)

Table 5-5: Impact of Borders over Time, Comparing Five Periods
(Rare Events Logit, DV=War Onset), continued

VARIABLES	(1) Core Model	(2) Realpolitik	(3) Realist Dyad	(4) Realist Systemic	(5) Democracy	(6) All Controls
Dyadic duration			-0.00144			0.00118
			(0.00640)			(0.00631)
System Concentration				6.876		6.837
				(6.424)		(5.508)
Number of States in Intl System				-0.00277		
				(0.0125)		
Jus in bello					-0.123	-0.0416
					(0.111)	(0.128)
At least one side democracy					0.770**	0.771*
					(0.362)	(0.396)
Time since last war	-0.0508*	-0.0511*	-0.0531	-0.0485	-0.0377	-0.0426
	(0.0295)	(0.0299)	(0.0336)	(0.0299)	(0.0294)	(0.0320)
Time (squared)	0.000615	0.000649	0.000723	0.000618	0.000404	0.000481
	(0.000689)	(0.000689)	(0.000703)	(0.000695)	(0.000626)	(0.000647)
Time (cubed)	-2.24e-06	-2.45e-06	-2.92e-06	-2.38e-06	-1.29e-06	-1.77e-06
	(4.41e-06)	(4.37e-06)	(4.46e-06)	(4.43e-06)	(3.72e-06)	(3.93e-06)
Constant	-4.088***	-3.357***	-4.000***	-5.903**	-3.575***	-6.521***
	(0.286)	(0.374)	(0.492)	(2.553)	(0.338)	(2.040)
Observations	17,549	16,570	16,570	16,828	16,828	16,570

Robust standard errors in parentheses
*** p<0.01, ** p<0.05, * p<0.1

Hypothesis 2

The results of the tests here also demonstrate strong support for Hypothesis 2.

Historically, as shown in Tables 5-1 and 5-6, power differentials mattered. This was

true both whether neighboring states had a disputed or settled border. Beginning with

the League of Nations, however, but especially during the United Nations period, even

major differences in the balance of forces have almost no effect on the probability of war onset *if neighbors have settled borders*. If their borders are in dispute, then differences in the balance of forces impacts the probability of war onset just as had been the case during the Concert of Europe.

While my argument is agnostic as to the direction of the effect, it is interesting to note that the rationalist approach to war appears to be a better predictor for how balance of forces matter than the realist approach. Again, the rationalist approach would expect to find a higher chance of war the less clarity there is about the probability that each side will win—which is more likely when the two sides are closer in strength than when one side dominates another. The realists would expect strong countries to attack their weaker neighbors, meaning that the bigger the power disparity, the easier the prey and thus the higher likelihood of war. The results here are negatively signed, so that as the ratio grows, the likelihood of war is shrinking.

To give a sense of this change, if we took a pair of countries during the Concert era at the mean CINC ratio, and then increased it (meaning the gap between the sides grew) by one standard deviation, it would reduce the likelihood of war erupting between them by 94 percent.[336] If we only look at neighboring countries whose border was settled following a territorial dispute (i.e. accounting for the selection effects), we see that number was even higher (96 percent). However, once the territorial integrity norm is in place following World War I, changing the balance of forces barely affects the likelihood of war onset (see Tables 5-6 and 5-7). For the

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[336] As noted above, CINC ratios used here are the logged values. The mean CINC ratio for the concert era was 1.75, the standard deviation was 1.37.

League of Nations period, increasing the ratio by 1 standard deviation increased the likelihood by 0.2%, whereas during the UN it reduced it by 17%.

Conflicts with disputed borders are also less likely to erupt in war during the League and UN periods, but the differences are on an entirely different scale (-62% during the Concert of Europe, -25% during the League and -41% during the UN) (Table 5-7). This is also reflected in the difference in statistical significance. While the difference between eras for CINC ratios is significant for settled borders, it is not for contested borders (Table 5-6).

Table 5-6: Effect of Balance of Power over Time, by Status of Borders
(Rare Events Logit, DV = War Onset)

VARIABLES	(1) Settled Borders	(2)	(3) Contested Borders	(4)
	Core	All Controls	Core	All Controls
League of Nations	-2.748**	-2.674*	0.0604	0.433
	(1.100)	(1.444)	(0.647)	(0.883)
United Nations	-3.034***	-4.584**	0.291	1.765
	(0.898)	(1.980)	(0.540)	(1.223)
CINC Ratio (ln)	-1.710**	-1.816*	-0.432**	-0.594**
	(0.862)	(0.933)	(0.195)	(0.249)
Interaction: League*CINC	2.084**	1.875*	0.200	0.363
	(0.899)	(1.059)	(0.298)	(0.340)
Interaction: UN*CINC	1.758**	1.757*	0.160	0.197
	(0.870)	(1.020)	(0.248)	(0.313)
S-Score (Alliances)		-0.290		0.453
		(0.886)		(0.511)
At least one side major power		1.233		0.555
		(0.906)		(0.449)
Dyadic duration		-0.0186		0.0129*
		(0.0155)		(0.00786)
System concentration		4.679		1.924
		(11.20)		(6.163)
Jus in Bello		0.227		-0.213
		(0.142)		(0.136)
At least one side democracy		-1.976		1.754***
		(1.221)		(0.325)
Time since last war	0.0213	0.00904	-0.103**	-0.0773*
	(0.0408)	(0.0540)	(0.0453)	(0.0460)
Time (squared)	-0.000941	-0.000433	0.00214*	0.00143
	(0.000742)	(0.000843)	(0.00126)	(0.00121)
Time (cubed)	6.02e-06*	3.87e-06	-1.18e-05	-7.35e-06
	(3.11e-06)	(3.47e-06)	(9.41e-06)	(8.80e-06)
Constant	-3.428***	-5.007	-3.114***	-4.370*
	(0.900)	(4.894)	(0.340)	(2.241)
Observations	13,278	13,029	3,593	3,572

Robust standard errors in parentheses

*** p<0.01, ** p<0.05, * p<0.1

Table 5-7: Effect of Balance of Power over Time, by Status of Borders
Change in Probability of War Onset if Balance of Forces
Becomes more Lopsided by One Standard Deviation

	Concert of Europe (1816-1918)	**League of Nations (1919-1945)**	**United Nations (1946-2001)**
Settled Borders	-94%	+0.2%	-17%
Settled Borders (previously disputed only)	-96%	+15%	+15%
Contested Borders	-62%	-25%	-41%

Hypothesis 3

Here as well, tests demonstrate strong support for H3. As shown in Table 5-8 (below), regardless of which control variables are used, during the League of Nations, neighboring countries with settled borders were significantly more likely to go to war if the weaker country had more natural resources. During the UN period, the coefficient is almost equal but switches direction. Thus, when compared to the League of Nations, natural resources during the UN period have far less influence on the likelihood of war breaking out (again, for neighbors with settled borders). As with other findings, these are also consistent (if slightly less significant) for models which take into account selection effects. On the other hand, there is no similar effect if we compare the League of Nations versus the UN periods for neighbors with disputed territory.

One major concern with these regressions is the number of observations drops significantly when the natural resource variables are included (from ~16,800 to

~10,400), and it drops the number of wars for dyads with settled borders to a mere 11 throughout the 1919-2001 period. In an attempt to mitigate this concern slightly, I also ran regressions on highly lethal MIDs (17 instances of war onset; n=10,800). The results were very similar to those in Table 5-8 below.

Table 5-8: Effect of Natural Resources over Time, for Dyads with Settled Borders
(Rare Events Logit Regression, DV=War Onset)

VARIABLES	(1) Core	(2) Realist	(3) Jus in bello	(4) Democracy	(5) All Controls
Resource Income of Weaker State	7.94e-10***	6.65e-10**	7.00e-10**	9.29e-10***	7.88e-10***
	(2.29e-10)	(2.97e-10)	(2.96e-10)	(2.89e-10)	(2.91e-10)
United Nations	-1.178*	-1.554	-1.602	-1.144*	-2.513
	(0.701)	(2.472)	(1.365)	(0.654)	(2.147)
Interaction: Resource Income*UN	-7.47e-10***	-6.19e-10**	-6.54e-10**	-8.83e-10***	-7.40e-10**
	(2.30e-10)	(2.97e-10)	(2.96e-10)	(2.89e-10)	(2.92e-10)
CINC Ratio (ln)		0.165	0.167	0.153	0.0802
		(0.152)	(0.147)	(0.148)	(0.137)
S-Score (Alliances)		-0.267	-0.330	-0.872	-0.537
		(1.380)	(1.320)	(1.345)	(1.738)
System Concentration		12.94			9.063
		(15.95)			(14.45)
Num of Great Powers in the System		-0.0295			-0.426
		(0.538)			(0.513)
Number of States in Intl System		0.0133			-0.0211
		(0.0280)			(0.0362)
At least one side major power					0.707
					(0.624)
Dyadic duration					-0.0128*
					(0.00735)
Jus in bello			0.0783		0.512
			(0.162)		(0.398)

Continued

Table 5-8: Effect of Natural Resources over Time, for Dyads with Settled Borders
(Rare Events Logit Regression, DV=War Onset), continued

VARIABLES	(1) Core	(2) Realist	(3) Jus in bello	(4) Democracy	(5) All Controls
At least one side democracy				-1.255	-1.176
				(1.348)	(1.349)
Time since last war	0.0871	0.0926	0.0827	0.0922	0.0717
	(0.0630)	(0.0720)	(0.0726)	(0.0635)	(0.0716)
Time (squared)	-0.00183	-0.00191	-0.00176	-0.00195*	-0.00143
	(0.00112)	(0.00124)	(0.00123)	(0.00109)	(0.00119)
Time (cubed)	8.99e-06**	9.32e-06*	8.73e-06*	9.89e-06**	7.55e-06
	(4.56e-06)	(5.06e-06)	(5.01e-06)	(4.37e-06)	(4.76e-06)
Constant	-6.684***	-11.44	-7.029***	-5.876***	-7.555
	(0.951)	(7.372)	(1.505)	(2.031)	(6.479)
Observations	10,636	10,399	10,399	10,399	10,399

Robust standard errors in parentheses
*** p<0.01, ** p<0.05, * p<0.1

CONCLUSION

This chapter shows strong support for the hypotheses regarding war onset proposed in chapter 3. First, when the territorial integrity norm was more robustly enforced, it dramatically reduced the likelihood of war, but only for neighbors with settled borders. Neighbors with disputed borders, on the other hand, saw no similar reduction in the likelihood of war onset. Second, when the norm was more robustly enforced, CINC ratios became irrelevant. However, during the Concert of Europe (regardless of border status) and for disputed borders during the League and UN, there was no such effect. Finally, the chapter demonstrates that opportunity costs (in the form of highly valuable territory) matter most when norm enforcement is least certain.

Chapter 6:

Flirting with Annexation: Understanding Israeli Restraint in

1956 and 1981

INTRODUCTION

The previous chapters have considered how the territorial integrity norm affected war onset and war termination. This chapter utilizes a qualitative approach in order to accomplish two tasks. First, it aims to provide some evidence that the results discussed in the previous chapters were not simply the product of spurious correlation by demonstrating that the territorial integrity norm can have a major impact on how wars end. Second, I use this chapter to explore the specific casual mechanisms by which the territorial integrity norm impacts state behavior.

To do this, I consider several occasions Israel had to decide whether or not to annex territories it captured during conflict. In 1949, Israel annexed territory it had acquired during fighting beyond what it was allotted in the Partition Plan. On the heels of the 1956 Suez War, Israeli Prime Minister David Ben-Gurion sought to follow this precedent, publicly hinting at the idea of annexing the Sinai Peninsula and Gaza Strip. Unlike 1949, however, Ben-Gurion reversed course literally overnight and declared Israel would withdraw from Sinai. At the same time, it took almost another six weeks before Israel declared it would not annex Gaza and six months before Israel finally withdrew from the Strip.

Fourteen years after it had captured the Golan Heights in the Six Day War, the issue of annexation was raised again when in 1981 the Begin government decided to extend "Israeli law, jurisdiction and administration" to the Golan Heights (referred to as the "Golan Law"). Why did Israel extend its jurisdiction, on the one hand, but explicitly stop short of *de jure* annexation on the other?

One reason these cases were chosen is because they represent moments when Israel paid substantial opportunity costs for abiding by the territorial integrity norm. As discussed in Chapter 3, norm strength is a function of opportunity costs. This means that one cannot explore how norms function in moments where actors do not pay costs for abiding by them. Conversely, the higher the cost for abiding by the norm, the more likely we are to see clear manifestations of a given norm at work.

So in both of these cases, what motivated Israel's decisionmaking? Was it, in fact, the territorial integrity norm? If so, what precisely was the mechanism that caused Israel to obey the norm? Did Israeli decisionmakers fear international reactions or Arab reprisals? Did they believe the move might sabotage prospects for peace? Or were they restrained out of fear the domestic opposition would use their moves as ammunition to discredit the government?

In the course of this study, it became apparent that the United States played a central role in Israeli decisionmaking in both cases. This, however, raised more questions than it answered. Specifically, why did the United States seek to restrain its ally? Did American officials fear the Soviet or Arab reaction? Or were normative considerations prominent (i.e. it would undermine the norm against conquest or some

other norm)? What did the US and other major powers say to Israel privately? What did they say and do publicly? How did they handle the issue at the UN? Finally, did the United States (and other countries) undertake concrete action, or did these countries limit their response to rhetorical condemnation?

Theories, Counterfactuals, and Alternative Hypotheses

In order to see if the territorial integrity norm is impacting behavior, I devised several hypotheses at the outset of the study about the sort of behavior we should anticipate observing.[337] To begin, throughout both the international and domestic discourse we should see repeated reference to annexation as illegitimate. However, this should hold specifically for recognized and settled boundaries, with the reaction being far more muted in the case of territory that had been disputed before prior to hostilities. Moreover, although I anticipate finding that some Israelis may have truly internalized this norm, the theory I advance in chapter 3 leads to the hypothesis that it was the threat of a harsh response by the international community which was the main force staying Israel's hand. Likewise, I anticipate finding evidence that, to the extent there was domestic opposition, the rhetoric of their opposition will largely address the fear of international consequences for norm violation, while arguments that annexation is forbidden on moral grounds will likely fall on deaf ears. Especially strong evidence for the norm would be the extent to which Israel's allies—and not just its enemies— condemn and threaten Israel should it annex land it has conquered.

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[337] This approach is essentially that of "process-verification," as outlined by Bennett and George (1997).

The counterfactual to my argument is that had the territorial integrity norm not existed or had no influence on international relations, then there would be little reason for Israel to refrain from annexing territories it captured during fighting. We would anticipate no domestic opposition (at least from Zionist parties) to expanding Israeli sovereignty over areas conquered in war. We should not witness concern that annexation, *per se*, would raise the ire of its allies. Any international opposition that would arise should be based primarily on concern that it would make Israel stronger or constitute a material loss for Arab states. As such, opposition would be voiced primarily by Israel's adversaries and their allies, and we should not anticipate condemnation by Israel's allies. If Israel's allies were to condemn her, that condemnation could only be driven by a desire to avoid the malice of the Arab states and their allies. Likewise, the counterfactual suggests that actors should not distinguish between annexation and long-term *de facto* occupation, as both should translate into similar material losses for Arab states. Finally, we would expect that the rhetoric of international opponents would be couched in *realpolitik* terms, focused on how Israeli aggrandizement makes Israel a bigger threat in the future to other states rather than a normative claim about inappropriate action that contradicts accepted international practice.

What are the alternative hypotheses? First, in what I will refer to as the *realpolitik* thesis, Israel could have refrained from annexing territories out of a concern that annexation could lead to costly reprisals from Arab states or their allies. As for the United States, if it believed the Soviets would make major diplomatic gains

or that it could lead to World War III, this could also explain American responses to Israel's actions without norms playing any causal role. Or to the contrary: perhaps Israel refrained from annexing territories out of concern that such Israeli annexation would signal a lack of interest on Israel's part in arriving at a peace treaty. In which case, a US rebuke could be to promote Arab-Israeli peace.

Another alternative hypothesis is based on the "conquest no longer pays" theory.[338] In this case, it would predict that Israel wanted benefits of annexation without having to suffer the costs—in this case, adding thousands of new Arab citizens which were inevitably hostile to the Zionist project. If this was the main motivating factor, the international reaction should not have been a primary concern. We would also anticipate far greater opposition for annexing territories like East Jerusalem, Gaza or the West Bank than either the Sinai Peninsula or the Golan Heights. The difference in terms of population is that while the former include hundreds of thousands of hostile enemy civilians, the latter had very small populations of specific sub-ethnic groups (Beduin in the Sinai, Druze in the Golan) that were thought not to be more committed to the well-being of their tribe and ethnic group than any larger nationalist ideal (e.g. Egyptian nationalism or pan-Arabism). Indeed, both Israeli Druze and Beduin villages have had a long tradition of serving in the Israeli army, historically an anathema to most Arab Christians and Muslims with Israeli citizenship. The territorial integrity norm predicts the opposite result: there should be no real dispute over the legal status of the Sinai or the Golan, as both were

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[338] Kaysen 1990; for a counter-argument, see Liberman 1998.

clearly owned by neighboring states. Gaza and the West Bank, on the other hand, have a far more contentious status in that they were never part of another state which still claimed them (they were Ottoman, made part of the British Mandate following World War I, then occupied by Egypt and Jordan respectively). Jerusalem is the most disputable from Israel's standpoint, because while the West Bank and Gaza were set aside for the Palestinian state in the UN Partition Plan of 1947, Jerusalem was supposed to be an international city.

A third alternative hypothesis is that an alternative norm was actually at work. One such possibility is the norm of self-determination. In practice, this would produce hypotheses similar to the "conquest no longer pays" theory. Israeli attempts to annex sparsely populated areas (e.g. the Sinai or the Golan) should be less problematic than attempts to annex heavily populated areas (e.g. the Gaza Strip or the West Bank).

Another candidate for an alternative norm is a broader norm against using force as a way to resolve political disputes (which was the point of the Kellogg-Briand Pact of 1928 (see chapter 2). If accurate, it is possible that the real norm at work is even more fundamental than just an injunction against violating the borders of another country. How can these two norms be distinguished? To begin, the anti-aggression norm should mean that all violence elicits a similar rebuke, regardless of aims. The norm on territorial integrity, on the other hand, would elicit a harsh rebuke if conquest was suspected, but would allow for far more understanding if the aim was not territorial. Likewise, the territorial integrity norm should elicit behavior and discourse

that distinguishes between clearly recognized borders and disputed territory. A norm against aggression *writ large*, on the other hand, should not promote such distinctions.

METHODOLOGY

Measuring Norms: A Qualitative Approach

As discussed in chapter 3, ideally we would measure norm strength quantitatively, determining the frequency a given norm is observed being conformed to given material opportunity costs paid for abiding by the norm. However, because quantitative approaches to measuring norm strength are fraught with factors that are difficult to measure, I have developed a qualitative method, taking the norm infraction itself as a way to measure norm strength.

In observing a serious infraction of a norm, people frequently see it as a sign the norm is unraveling. Yet the difference between strong norms and weak norms is not whether they get violated, *per se* (though violation frequency is important). Rather, occasional violations actually provide one of the best ways to gauge the true strength of a norm.

First, what do violators say to excuse their transgression? When a very strong norm gets violated, violators dispute facts: no, they did not commit that crime. When a moderately strong norm gets violated, violators claim they acted under extending circumstances, essentially appealing to some other, hopefully more widely accepted norm, and saying this latter norm should trump the former. Among the most common is reciprocity: I did it because he did it first. When a weak norm gets violated,

violators argue that they disagree with the norm itself or argue it only applies in limited circumstances (and thus, not to them). For example, when Singapore's former prime minister, Lee Kuan Yew, argued in 1994 that East Asian countries need not open up to democracy or grant civil liberties to their citizens because democracy is not an "Asian value," it is evidence that the norms of liberal democracy were not globally robust. Finally, if a norm does not exist, leaders should make no reference to claims that such a norm was transgressed. Alternatively, they might dismiss the idea that such a 'rule' exists at all.

A second way to gauge the strength of a norm is to examine the reaction of others to the transgression. How do disinterested third parties respond? How do adversaries respond? An adversary who does not agree with a contested norm may refrain from capitalizing on the norm violation by not criticizing their enemy's violation in order not to strengthen the norm. Sometimes most telling is how allies respond. When a strong norm is broken, it can even cause a state's ally to abandon them, or even turn against them outright.

Specifically what actions do others take in response to the norm violation? Is the response to condemn the violation; and if so, publically or privately? The latter suggests leaders themselves have internalized the norm, though it would depend on how the ally is rebuked—because they did something they should not have or because they have rallied international opinion against them. Next, do countries take diplomatic actions, such as cutting relations or returning an ambassador to express

their displeasure? Most credibly of all, do countries impose some sort of economic or military sanction, or even undertake military action in response to the norm violation?

Leveraging Quasi-Experiments

One of the main benefits of the cases I have selected is that they have quasi-experimental aspects to them which can be leveraged in order to isolate the casual effect of the territorial integrity norm from the alternative explanations. Most importantly, in its 1956 offensive, Israel simultaneously captured from Egypt both the Gaza Strip and the Sinai Peninsula. Although the Sinai had been attached to Egypt at the end of the Ottoman Empire, the Gaza Strip was part of Mandatory Palestine that Egypt came to possess via conquest during fighting in 1948. Consequently, while Egypt's sovereignty in the Sinai was almost universally recognized by other states, its right to sovereignty over Gaza was almost universally unrecognized (and Egypt itself would not officially annex it until the creation of the United Arab Republic in 1958).

Therefore, if Israeli annexation of Gaza is seen more favorably by Israelis or other states than the annexation of parts or all of Sinai, it would lend support to the territorial integrity norm thesis. If Israeli annexation of the Sinai is considered more favorably than Gaza, especially in Israeli internal cabinet or parliamentary discussions, it would undermine this thesis, while giving support to the self-determination norm and/or "conquest no longer pays" theses. If annexing the two would be considered

equivalent (either within Israel or by other states), it would support either the more general anti-aggression norm or the *realpolitik* theses.[339]

Of course, because the treatment (undisputed versus disputed sovereignty) was not randomly assigned, we should be gravely concerned about potential selection effects or omitted variable bias—that is to say, perhaps other differences between Gaza and Sinai might account for the different way in which the two are treated. While there are many other differences, upon examination they actually bias against the territorial integrity norm. Strategically, the most important places are in the Sinai (e.g. Sharm el-Sheikh and el-Arish), not Gaza. Likewise, Egypt had established military bases and ran Palestinian guerilla operations out of both areas. Demographically, as previously mentioned, there were an estimated 300,000 Palestinians living in Gaza while there were only a handful of small Beduin tribes (considered distinct from typical Egyptians) in Sinai. Unquestionably, Israel would have had a much easier time giving citizenship and incorporating the Beduin, as they had Beduin in the Negev Desert and Galilee following 1948. In terms of geography, geology, and natural resources, Israeli leaders knew Sinai possessed three oil deposits, one of which was considered particularly abundant.[340] Gaza, on the other hand, is almost entirely without natural resources.[341] The Sinai encompasses an area three

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[339] A similar quasi-experiment is more problematic in 1981. In this case, Begin was bound by the Camp David Accords with Egypt to engage in talks granting autonomy to the Palestinians. Any move on the West Bank would have likely brought about a cancellation of the peace treaty which was a center piece of Begin's foreign policy legacy.

[340] Israeli Government Meeting, November 3, 1956 (Secret, Hebrew), ISA, pp. 7-8. Ben-Gurion also discusses this in his diary and at Sevrés.

[341] Spare a small amount of beach area which, in theory, could be developed for tourism. The Sinai, however, has endless coastline with some of the best scuba diving attractions on earth.

times the State of Israel, which could provide Israel with badly needed strategic depth, pushing Egyptian forces hundreds of miles away from Israel's population centers. Possessing Gaza would not serve as a meaningful buffer, as Gaza only covers a tiny fraction of the Egyptian-Israeli border. Even historically, more of the Jewish biblical narrative takes place in the Sinai Peninsula (the Exodus from Egypt, Moses giving the Commandments at Mount Sinai), whereas Gaza was mostly held by the Philistines. Although the West Bank figures prominently in the Bible, even the sites of famous battles with the Philistines (e.g. David versus Goliath) are not in Gaza.

The second quasi-experiment in these studies leverages time. In the case of the Golan Heights, the entire initiative began and ended on December 14, 1981. In the morning, Menachem Begin notified his ministers of his plan, and in an unprecedented maneuver, within a day, Begin had passed the bill through the cabinet, parliamentary committees, and three readings in the Knesset (parliament) itself. Moreover, Begin's initiative came as a complete surprise to everyone, from his own most senior ministers to the intelligence communities of other countries.[342] Conveniently, we can use this as a shock, considering it as a sort of time-series quasi-experimental design, observing what domestic and international reactions the move produced. Most importantly in this

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[342] Samuel Lewis, who had served as ambassador at the time, claimed in an interview 17 years later that the embassy had started picking up rumors of such a move two days before. Given that it was a tightly-guarded secret that Begin shared with no one until the evening before, this is unlikely. In addition, Lewis' recollection of dates is somewhat off, as he recalls the cabinet discussion occurring on the 13th, saying it took place a full day before the Knesset vote, when in fact it occurred on the same day (the 14th). Jessop 1998, p. 187.

This said, the *New York Times* reported on October 24, 1980—fully 14 months earlier—that Begin had met with Lewis and discussed similar legislation.

regard, this case allows us to separate the effects of annexation from the use of military force, disentangling the two related norms.

The 1956 case has similar potential, albeit not nearly as pristine as in 1981, as for the first eight days after hostilities began (on October 29), Israel adamantly denied it was driven by any territorial ambitions. On November 7, however, Israel publicly implied otherwise. Thus, to the degree that international reaction changes on November 7, it is easier to attribute to that change in Israeli policy as opposed to other geo-political or domestic considerations which ostensibly should have also been present on November 6.

There is at least one potential confounding factor here in the 1956 time-series design: Eisenhower won re-election on November 6, and so was far freer to place more vigorous pressure on Israel on November 7. Yet, Eisenhower led his Democratic opponent Adlai Stevenson by 10-25 points in every poll, including the most recent Gallup poll taken before the election.[343] Likewise, he was unlikely to win wide support amongst American Jewry regardless of how he responded to the crisis. In which case, Eisenhower likely believed that he could respond however he felt best and the electoral price he would pay would be sufferable.

Least Likely Cases

In many ways, the case studies here also represent "least likely cases" for the territorial integrity norm. Israel has gained a measure of reputation since its founding

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[343] For polling, see Gallup website <http://www.gallup.com/poll/110548/gallup-presidential-election-trialheat-trends-19362004.aspx#4> and <http://www.gallup.com/poll/110074/Shifts-Last-Two-Months-Election-Uncommon.aspx>.

for ignoring the UN and thumbing its nose at international opinion when its national interests are at stake. This is particularly true of the Golan Law case, which was enacted by the hard-core nationalist Likud (formerly Herut) party. A core element of Begin's ideology and his party's platform (even before the establishment of the State in 1948) was an unabashed call for military conquest and annexation of any territory that was part of the Biblical Land of Israel. Begin stated on numerous occasions (including as leader of the opposition during the 1956 crisis) that the Jews' historic rights to the land cannot be abridged, holding in total disregard any norm to the contrary. Besides ideology, Begin also believed that Israel should forge its policy with near total disregard for international opinion. As head of state, he ordered the attack on Osiraq (the Iraqi nuclear reactor) in 1981, greatly expanded settlement building beyond the 1967 lines,[344] and invaded Lebanon in 1982—all moves that received nearly universal condemnation, even from its closest allies. With this in mind, it would be highly unlikely that international normative considerations—particularly the territorial integrity norm—should restrain Begin's policy.

In certain respects, 1981 is also a "least likely case" from the American standpoint. As opposed to Eisenhower in 1956, whose administration from the outset was arguably the least supportive of Israel of any American president, the inauguration of the Reagan Administration should have been followed by a honeymoon in the Israel-US bilateral relationship. For Reagan, the primary national interest of the United

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[344] The number of settlers during Begin's first administration had gone from less than 5,000 to over 18,000 and the number of settlements had doubled as well. These 20 new settlements included locations next to major Arab populations, which the previous Labor governments had avoided. Lustick 1981, p. 557.

States was to fight the evil of Communism, and he generally viewed all events, including those in the Middle East, through a Cold War lens. As such, he saw Israel as a major strategic asset (even ally) in the region, valuing both its military prowess and its democratic values. Unlike Carter, Reagan had little interest in the plight of the Palestinians or the endless intricacies of the Arab-Israeli conflict and its history.[345] His administration came into power disinclined to invest in the peace process, very understanding of Israel's security needs, and uninterested in pressing Israel to make major concessions in order to achieve an additional peace deal. Reagan also had won 40 percent of the Jewish vote in 1980, considered very high for a Republican candidate.[346] The only real source of concern from Israel's perspective was the high priority the Reagan Administration placed on relations with Saudi Arabia.

Despite this, relations had hit two snags in 1981 prior to the Golan Heights Law. First, there was the sale of Airborne Warning and Control System (AWACS) aircraft to Saudi Arabia in mid-1981, which Israel and its allies fiercely opposed in Congress.[347] Second, in June 1981, Begin ordered the strike of Iraq's Osiraq nuclear reactor. While many in Washington were impressed by the Israeli strike, there was a concern that such a pre-emptive strike might set a dangerous precedent, and so Washington punished Israel diplomatically, and more crucially from Jerusalem's standpoint, by suspending the delivery of F-16 aircraft.[348]

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[345] Quandt, pp. 245-49. Lewis 1999, pp. 368-9.
[346] NYT, April 4, 1982, citing a Gallup-CBS poll from the 1980 election.
[347] Spiegel 1985, pp. 407-411.
[348] Spiegel 1985, p. 409.

Yet, in a clear signal that both sides were interested in tightening their bilateral relationship, on November 30, 1981, US Secretary of Defense Casper Weinberger and Israeli Defense Minister Ariel Sharon signed a Memorandum of Understanding on Strategic Cooperation (MoU). The goal was to deter Soviet threats in the Middle East, and included elaborate joint military exercises, and the creation of numerous joint coordination mechanisms. As predicted, Arab states and the USSR criticized the agreement, but the administration was not concerned by the criticism. With this in mind, the last thing the administration was interested in was a crisis with Israel, especially over an issue like the Golan Heights. For all these reasons, there is little reason to anticipate either Israel abiding by an international norm, or the United States restraining its ally for the norm's sake.

Data

In terms of "data" for this chapter, I use a range of secondary sources for background, but focus my analysis to the greatest extent possible on primary source materials to understand what motivated both actions and rhetoric. I work under several assumptions in my treatment of primary source materials. First, I assume that the optimal source is an official transcript from a meeting between the president or prime minister and his close advisors, followed by closed cabinet-level discussion. Such discussions are almost always classified (in Israel's case for at least 30 years), and given the gravity of the subject, I anticipate that participants will discuss and debate the most important concerns with relatively less fear about how it will affect their

public standing. I also privilege such sources because besides being relatively frank, these transcripts also avoid problems associated with flawed memories when events are recounted long after the fact. Such transcripts should also suffer from far fewer attempts (intentional or unintentional) to make oneself look wiser, etc., compared to autobiographies, interviews, and even journals from the time, as the later have the benefit of both retrospection and time to think about crafting words. Most journals were also written with a clear knowledge that it would read by future generations and would be critical in setting the historical perception of the author. In the fast-paced ping-pong of cabinet settings, ministers are most likely to say what they actually think.

While such transcripts are available for 1956, they have yet to be released for 1981. Consequently, I use other previously classified internal documents from the time, such as Foreign Ministry cables to and from its emissaries abroad and summaries of discussions with American officials. I also examine official cabinet decisions, Knesset debates, and public speeches or statements and media interviews. I also take into account the diaries (and of lesser value, the autobiographies) of the main protagonists.

THE SUEZ WAR (1956)

Background

The conclusion of the Israel-Egyptian Armistice agreement in 1949 (which brought the first Arab-Israeli war to an end) did not translate into a true end of hostilities. By the fall of 1949, Egypt had placed artillery at the strategic city of Sharm

el-Sheikh (at the southern tip of the Sinai Peninsula) and used it to impose a blockade on Israeli shipping through the Straits of Tiran, chocking off the port of Eilat. Combined with Egypt's refusal to allow Israeli shipping to pass through the Suez Canal, all imports and exports to Asia had to travel from Israel's Mediterranean coast around all of Africa, adding considerable cost to both finished goods and raw materials.[349] Almost two years later, the United Nations Security Council (UNSC) passed Resolution 95, condemning the blockade as contrary to both international law and the 1949 armistice agreements, and demanded Egypt end it.[350] Egypt ignored the resolution and neither the UNSC nor any single country proved willing to enforce the resolution.

Beginning in 1954, Egypt also attempted to maintain the state of war by sponsoring *fedayeen* (guerilla commando) attacks, consisting of Palestinian fighters organized and trained in bases in the Sinai and Gaza. By mid-1955, these attacks had increased greatly in both frequency and audacity, with *fedayeen* units penetrating tens of miles into Israeli territory, including several attacks on civilians on the outskirts of Tel Aviv.[351] Between 1951-1955, *fedayeen* raids and other military attacks killed 884 Israelis (mostly civilians).[352] In response, Israeli forces undertook retaliatory strikes against Egyptian military and police targets as well as Palestinian villages. While the retaliatory raids were intended to deter further attacks, the pace only increased while

[349] Levy and Gochal 2001, p. 19.
[350] The text of the resolution can be found at the UN website: <https://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/95%281951%29>.
[351] Alteras 1993, p. 157-8.
[352] Ben-Gurion, speech to Knesset, January 23, 1956, in Lorsh, p. 1025. Arab raids into Israel killed 137 in 1951, 147 in 1952, 162 in 1953, 180 in 1954, and 238 in 1955. Brecher 1975, p. 229

creating the international impression of moral equivalency between the sides in their lack of adherence to the armistice agreement.

Finally, pre-invasion, Israel became convinced that Egypt was building up its military capacity with the express intent of eventually starting a new war in order to destroy Israel. In addition to the incessant proclamations to that effect by Egyptian president Gamal 'Abd al-Nasser and Egypt's government-controlled media,[353] Nasser had dismissed outright a number of attempts to negotiate a peace treaty with Israel, including a secret American attempt in early 1956.[354] Beyond intentions, Nasser had signed a massive arms deal with the USSR in July 1955 for $450 million, whose goal was to shift the balance of forces so that Egypt would possess a clear advantage. As a result of this deal, within two years, Egypt would more than double its tank force, triple its arsenal of fighter jets, and receive destroyer warships, torpedo boats, and submarines.[355] Beyond mere quantities, many of these top-of-the-line arms were considered superior to anything in Israel's arsenal. On October 23, 1956,[356] Egypt then announced it had formed an alliance with Jordan and Syria, which brought the

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[353] One oft-cited example is Nasser on August 31, 1955: "Egypt has decided to dispatch her heroes, the disciples of Pharaoh and the sons of Islam and they will cleanse the land of Palestine....There will be no peace on Israel's border because we demand vengeance, and vengeance is Israel's death." Dowty 2012, p. 110.

[354] Alteras, p. 165-66. In January 1956, Eisenhower and Dulles appointed Robert B. Anderson, a former Pentagon official then working in private business, to be special coordinator on a secret peace mission to Cairo and Jerusalem. At Anderson's first meeting with Nasser on Jan. 19, Anderson thought he had received positive responses from the Egyptian president. Afterwards, Nasser turned to CIA agent Kermit Roosevelt, who had accompanied Anderson and was a friend of Nasser, and asked him to explain what the Texan had said. After Roosevelt "translated" Nasser exclaimed, "You know I couldn't do anything like that. I'd be assassinated. Go stop him. Don't let him send any cable." Alteras quotes Neff, *Warriors at Suez*, p. 135-36.

[355] Levy and Gochal 2001, pp. 23-34, esp. page 29.

[356] There is actually no consensus on when this happened. Ben-Gurion in the Knesset says Oct. 23 (Brecher concurs). Alteras says Oct. 19, but FRUS says Oct. 24.

combined forces under Egyptian command. Given that Nasser had repeatedly stated his aim was the destruction of Israel, this was viewed as an ominous move in that direction.[357]

Pre-empting the Inevitable

By December 1955, Ben-Gurion and others had concluded that a pre-emptive war would be necessary. The timing, however, was affected by other events. One factor was the composition of the Israeli cabinet. Foreign Minister Moshe Sharett had regularly led cabinet opposition to Ben-Gurion's proposals for military action, including thwarting a major operation against Egypt in December 1955. In June 1956, Ben-Gurion forced Sharett to resign, paving the way for a future, and in Ben-Gurion's mind inevitable, military strike.[358]

A second factor was arms: since independence, Israel had no regular and reliable supplier of arms. After the Czech deal was signed, Israel stood to be at a major disadvantage. Israel attempted to address this impending imbalance by purchasing American arms, which besides their perceived quality, were thought to signal American commitment to Israel's security as well. Despite incessant attempts by Israel and its supporters, the US continually balked—precisely, in fact, because they too saw such an arms deal as send a signal about its deeper commitment to Israel and feared

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[357] Although cited as part of the justification by Israel for launching the attack, the Arab alliance obviously did not cause Israel to go to war, as Ben-Gurion himself was at that moment meeting with French and British officials in Sevrés to plot their attack (see below).
[358] Alteras, pp. 184-5.

the ire this would produce in Arab capitals.[359] Eventually the US administration agreed to serve as handmaiden to Israeli purchases of French and Canadian arms, though the US itself continued its refusal to sell them directly to Israel. By the summer of 1956, however, the French-Israeli relationship had blossomed quite independently of America, and Israel secretly purchased 200 tanks, nearly 100 jet fighters, and large amounts of ammunition—much of which would go unnoticed by the US until hostilities broke out.[360] Once incorporated, these arms shifted the balance of forces back to Israel's favor.

A third factor affecting timing was the policies of the great powers. Ben-Gurion thought it was a mistake for Israel to strike on its own without the clear backing of a major power patron.[361] Israel's fortunes on this front began improving as Nasser refused to begin peace negotiations and when Egypt extended recognition of communist China—both of which strained his relationship with the United States. That strain led to the US pulling its funding from the Aswan Dam project on July 19, 1956 a move echoed by Britain the next day.[362] In response, on July 26, 1956, Nasser nationalized the Suez Canal (in order to pay for the dam), which had been owned by the British and French and was considered by both to be of central strategic importance.[363]

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[359] Alteras, p. 184.
[360] Alteras, p. 186.
[361] See Ben-Gurion's diary, Aug. 22, 1956, p. 295.
[362] Alteras, p. 188-89.
[363] Besides the UK holding nearly a majority control of the Canal's stock, the Canal was a critical thoroughfare for British imports, especially oil, and for supporting its bases in the East. Should Nasser cut off British access—as it had done to Israel—this could be devastating for Britain. Alteras, p. 189.

While nationalization infuriated London and Paris, both the French and the British had long decided Nasser was fundamentally inimical to their interests. France had become convinced that Nasser was the primary backer of Algerian rebels, and so the rebellion there could not be crushed so long as Nasser remained in power.[364] Britain, for its part, was certain Nasser was trying to force them out of the Middle East altogether. They saw additional evidence of this following the parliamentary elections in Jordan, which brought a pro-Nasserite prime minister to power, who urged the cancelation of Jordan's alliance with Britain in favor of an alliance with Egypt and Syria.[365]

While the United States backed France and Britain over the Suez, American policy from July onward was actually aimed at preventing Britain and France from initiating armed intervention. While British and French leaders believed that "only the use of force against Nasser would restore Western prestige in Africa and the Middle East," American officials argued the opposite. They held that "all of Africa, the Middle East and Asia would be inflamed against the West and that Soviet Russia would have an easy time to pick up the pieces."[366]

From Israel's standpoint, the confluence of interests created by the Suez crisis represented a golden opportunity for concerted action with two major powers that could provide it with both military and diplomatic backing. This consideration was so

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[364] Shlaim 1997, p. 514; Levy and Gochal 2001, p. 35; and Alteras, p. 186. This included Egypt's supplying of weapons to Algerian rebels. See Alteras.
[365] Alteras, p. 207.
[366] All quotations are from FRUS Suez, Doc. 302. Message From the Secretary of State to the President (New York, October 5, 1956)

critical that Israel was willing to initiate hostilities well before the IDF had finished absorbing French weaponry and reached peak capacity.[367] This finally materialized into a tripartite alliance during October 22-24, as leaders from the three countries met at a secret summit at a private villa in Sevrés (outside Paris), where the three countries agreed to a coordinated plot for attacking Egypt. The plan was for Israel to begin hostilities against Egypt, dropping forces within 30 km of the Canal. The British and French would then issue an ultimatum to both sides to cease-fire and withdraw from the Canal. While Israel would agree, it was clear to all that Nasser would be unable to accede to the British and French demands to withdraw forces from their own territory. Egyptian refusal would then allow the Western powers to intervene militarily, ostensibly in order to separate the belligerents, but in fact in order to regain control over the Suez Canal, and if possible, overthrow Nasser.[368]

Invasion

On October 29, 1956, Israeli forces invaded the Sinai Peninsula and Gaza Strip. Fighting was swift and decisive. By November 3, almost all of the Sinai Peninsula was in Israeli control, with the most important exception being the fortified town of Sharm el-Sheikh (which was pivotal for Egypt's blockade of Israeli shipping). By November 5, Sharm el-Sheikh was also in Israeli control.

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[367] Ben-Gurion estimated that the armor would only be ready Jan. 1, 1957 and the air force March 1. (Ben-Gurion's diary, Sept. 25, 1956, p. 299).
[368] Moshe Dayan's autobiography was the first to admit what had happened at Sevrés, though Ben-Gurion's diary discusses it in depth. The best single source on the Sevrés summit is Shlaim 1997.

From the outset, Eisenhower and senior members of his administration were livid. For one, they had been badly, almost ridiculously, misled. On Oct. 28, Ben-Gurion had met with US ambassador Lawson and told him Israel would not invade (until the actual invasion, the US feared Israel would invade Jordan, not Egypt). On Oct. 29, at the very moment Israeli forces were invading Sinai, Abba Eban (Israel's ambassador in Washington) and Reuven Shiloah (deputy chief of mission) were meeting with two senior State Department officials. The two (themselves misled by their instructions from Jerusalem) were adamantly denying that there would be an Israeli invasion when a third US official came into the room with a note announcing the invasion.[369]

Eisenhower was terribly upset with Israel's invasion for several other reasons. Ben-Gurion had for years consistently stated he was opposed to Israel initiating a war, and this was part of Israel's pitch for American defensive arms. Now, these appeals appeared disingenuous. In addition, many in the administration thought Israel was using the upcoming American elections to reign in American opposition.[370] Third, the administration had argued publicly that their Middle East policy was effective in preventing war, and now their policies seemingly had failed.[371]

Yet, these were all proximate causes. The root cause of America's wrath was the actual act of invasion. Israel misled American officials because they were against

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[369] Eban 1977, p. 211; and FRUS 1956, Suez Crisis, document 406, "Memorandum of a Conversation," Department of State, Washington, October 29, 1956, p. 821.

[370] FRUS Suez Crisis. In fact, Ben-Gurion had actually sought to avoid that timing precisely for that reason, but acquiesced to the repeated requests of his French counterparts to move up the timetable.

[371] Eisenhower's Democratic opponent, Adlai Stevenson, used this in a speech against him at the outset of the crisis.

such an incursion. The upcoming elections only mattered because American officials believed the timing was meant to prevent Eisenhower from taking a tough stand. So why did the Americans oppose it? One part of their opposition derived from *realpolitik* concerns. As mentioned previously, the Eisenhower Administration feared a major war could destabilize the region and give the Soviets a greater foothold in the region at the expense of the West. But the administration also strongly believed in the principles of the UN and that the "processes of the United Nations represents the soundest hope for peace in the world."[372]

In this regard, American opposition to Israel's incursion was, in part, due to the American suspicion that the incursion was actually a land grab. Indeed, after the initial shock of the invasion, the Eisenhower Administration's primary concern was whether or not Israel would withdraw to its previous boundaries. On October 30, Sherman Adams, Eisenhower's chief of staff, conveyed a message to Israel that if it would promise to remove its forces from the Sinai, the president would avoid condemning Israel in his address to the nation the following day. Likewise, on October 31, Amb. Eban met with Republican Party Chairman Thomas Dewey (considered close to Eisenhower), who told Eban that "Eisenhower's chief apprehension lay in the suspicion that [Israel] intended a permanent occupation."[373]

American officials were suspicious about Israeli intentions even before the war. During an internal meeting on October 15 (two weeks before hostilities began),

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[372] President Dwight Eisenhower, Address to the Nation, October 31, 1956. <http://www.presidency.ucsb.edu/ws/?pid=10685>.
[373] This is Eban's words, not Dewey's. Eban 1977, pp. 218. On Adams' appeal, see pp. 218-220.

Eisenhower and his advisors expressed concern that Jordan was on the verge of disintegration, and that if this happened, its neighbors would each try to take a piece. The president instructed the Secretary of State to pressure Israel and convey to them that:

> If [the Israelis] continue [the retaliatory strikes against Jordan], *and particularly if they carry them on to the point of trying to take over and hold the territory west of the Jordan River*, they will certainly be condemned by the United Nations, and not only Arab opinion but all world opinion will be brought to bear against this little country.[374]

During an initial consultation with his senior advisors, Eisenhower referred to a pledge the US had given on April 9 to support the "victim of any aggression in the Middle East"—a formulation originally intended to set the stage for assistance to Israel (in lieu of selling it arms)—and in his anger, raised the idea of using it to assist Egypt against Israel. He asked his advisors whether the US could initiate a blockade against Israel. Admiral Arthur Radford (Chairman of the Joint Chiefs of Staff) dissuaded Eisenhower, explaining that the fighting would be over within a few days and such an embargo would be ineffective. Still, Radford argued, the matter should be "handled on the basis of principle," a sentiment with which Eisenhower concurred.[375]

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[374] My emphasis. See, for instance, FRUS Suez, Doc. 345. "Memorandum for the Record by the President," October 15, 1956. Here the President and his advisors express concern that Jordan was on the verge of disintegration, and that if this happened, its neighbors would each try to take a piece. The president instructed the Secretary of State to pressure Israel and tell them that "If they continue [the retaliatory strikes against Jordan], *and particularly if they carry them on to the point of trying to take over and hold the territory west of the Jordan River*, they will certainly be condemned by the United Nations, and not only Arab opinion but all world opinion will be brought to bear against this little country.

[375] FRUS Suez, Doc. 411, p. 834. "Memorandum of a Conference with the President, White House," Washington, October 29, 1956, 7:15 p.m. Source: Eisenhower Library, Whitman File, Eisenhower Diaries. Top Secret. Drafted by Goodpaster.

In the public statement put out by the White House that evening, they reiterated the April 9 commitment and added "We shall honor our pledge."[376]

The next day the US introduced a draft resolution in the UNSC condemning the invasion and demanding an immediate Israeli withdrawal. The British and French demurred, instead issuing their ultimatum, as planned, on the morning of October 31. After it was rejected by Egypt, French and British aircraft began bombing targets in Egypt. At the same time, the British and French were extremely hesitant to actually land their troops. The tens of thousands of troops they had amassed in nearby Cyprus took days before they landed in Egypt on November 6, and even the paratroopers were not dropped until Nov. 5. It appears the reason for the delay was that Britain and France had hoped they could avoid having to actually land forces and risk the urban fighting that might ensue.[377]

In the meantime, realizing that the UNSC would remain gridlocked and fearful that the crisis would play into Soviet hands, the US took the extraordinary step of initiating an emergency session of the UN General Assembly (UNGA)—the first time this procedure had been used to overcome deadlock in the UNSC. There, the United States introduced resolution A/RES/997 (ES-I), which was approved on November 2, 1956 by a vote of 64 to 5 (with 6 abstentions). The resolution stove for balance. It began by "noting" that both sides had disregarded "on many occasions" the armistice agreements; that the Israeli army had now "penetrated deeply into Egyptian territory in

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[376] Eban 1977, p. 212. On the use of the pledge in order to put off Israeli requests for arms, see FRUS, pp. 836 and 839.
[377] Alteras, pp. 230-231.

violation of the General Armistice Agreement;" and that British and French forces were conducting operations "against Egyptian territory". The resolution then "urged" all parties to "agree to an immediate cease-fire and, as part thereof, halt the movement of military forces and arms into the area." It then "urged… the parties to the armistice agreements… [to] promptly… withdraw all forces behind the armistice lines" and to "observe scrupulously the provisions of the armistice agreements."[378]

Pressure on France, Britain, and Israel continued to build. The special emergency session continued passing almost daily resolutions calling on the three to comply with the initial resolution of November 2. On November 5, 1956, Soviet Premier Nikolai Bulganin sent separate, public letters to the Prime Ministers of Britain, France, and Israel, all of which included less-than-subtle threats. He condemned "the armed aggression… against Egypt which was a direct and open violation of the Charter and principles of the United Nations." "All peace-loving mankind," the Soviet Prime Minister wrote, "indignantly brands the criminal actions of the aggressors who have attacked the territorial entity, sovereignty, and independence of the Egyptian State." To Israel's prime minister, he said the invasion "is sowing hatred for the State of Israel… which cannot but affect the future of Israel and which will place a question [mark] upon the very existence of Israel as a State." The USSR, Bulganin wrote, is "taking measures with the aim of stopping the war and curbing the aggressors. We expect that the Government of Israel will come to its

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[378] Resolutions adopted by the General Assembly during its First Emergency Special Session from November 1 to 10, 1956. <http://www.unsco.org/Documents/Resolutions/GA_EMR_1(1956).pdf>.

senses before it is too late… stop aggression, halt the bloodshed, withdraw your troops from Egyptian territory." Finally, Bulganin notified Jerusalem that he was recalling the Soviet ambassador to Israel.[379]

That same day, Moscow offered Washington to "unite their efforts in [the] UN" in order to "[adopt] decisive measures to terminate aggression" in the Middle East. Bulganin's message to Eisenhower noted the "strong naval fleet" the US had in the Mediterranean, and the Soviet's own "strong naval fleet and powerful aviation," suggesting that "United and urgent use of these means on part of US and Soviet Union in accordance with [the] decision of UN" would guarantee the "termination of aggression against Egyptian people" and other Arab countries.[380]

While the US rejected this option out of hand, Washington held back oil shipments and financial aid—both of which were desperately needed by France and Britain—until they agreed to comply with the UNGA resolutions. Eventually, on November 7, under tremendous pressure from the US, USSR, the Labor opposition, and even some Conservative ministers, Eden ended the attack and agreed to comply

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[379] "Exchange of Letters, Bulganin - Ben-Gurion, 5 and 8 November 1956" in Meron Medzini (ed.), *Israel's Foreign Relations - Selected Documents*, Vol. 1. Viewed on the Israeli Foreign Ministry website:
<http://www.mfa.gov.il/mfa/foreignpolicy/mfadocuments/yearbook1/pages/7%20exchange%20of%20l etters-%20bulganin-%20ben-gurion-%205%20and.aspx>

[380] FRUS Suez, Doc. 505. "Letter from Prime Minister Bulganin to President Eisenhower," November 5, 1956. Bulganin also noted that the Soviet Union and United States are "permanent members of Security Council and are two great powers possessing all contemporary forms of armaments, including atom and hydrogen weapons." See also FRUS Suez, Doc. 503. "Telegram From the Embassy in the Soviet Union to the Department of State," November 5, 1956. The American Ambassador Charles Bohlen asked Soviet Foreign Minister Dimitri Shepilov, who handed him the letter, if the "Soviet Government was seriously suggesting that the US should use armed force against England and France." Shepilov "replied that was not being proposed and would not be necessary if the US and USSR would make plain their 'determination' to see the fighting come to a halt in the Middle East."

with the UNGA's resolutions. With the two countries' forces combined and British commanders now leaving the battle, even if France had wanted to ignore international pressure, it was forced to accept the cease-fire resolution. In the end, France and Britain accepted the cease-fire even though they had yet to achieve their objectives: taking control of the Canal and removing Nasser from power.[381] The sole condition they put on their acceptance was that their forces would withdraw only after a UN force (which would not include any of the permanent five UNSC members) began operating in the Canal. While Israel agreed to a cease-fire (a *de facto* cease-fire had been in place since the 5th), it did not accept the demand to withdraw from the Sinai.

Flirting with Annexation

For the first nine days after fighting began, Israel's declared aims were all related to self-defense. The *casus belli,* as laid out by Israel's Foreign Ministry, was three-fold: *fedayeen* (guerilla commando) attacks organized out of bases in the Sinai; the maritime blockade in the Straits of Tiran (in defiance of UNSC Resolution 95); and the alliance formed between Jordan, Syria, and Egypt, whose stated purpose was the destruction of Israel.[382]

Likewise, during the debate at the UNSC on October 30, Israeli ambassador Eban (relying on instructions from his superiors) categorically denied that Israel

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[381] In a most ironic note, the American officials would eventually ask their British counterparts why they had stopped short of the Suez and overthrowing Nasser. Ben-Gurion's diary and FRUS.

[382] "Text of Israeli Statement," *New York Times*, Oct. 30, 1956. The Israeli army's statement focused solely on the continued *fedayeen* attacks and the threat they had become. See FRUS Suez, p. 825, note 3.

sought to acquire territory.[383] In response to the previously mentioned offer by Eisenhower's chief of staff to avoid condemning Israel if it would promise to remove its forces from the Sinai, Ben-Gurion replied that Israel was willing to withdraw if Nasser would sign a peace treaty. Such a treaty would have to include an end to *fedayeen* attacks, the maritime blockade, the economic boycott, and Egypt would have to refrain from entering into any alliance aimed against Israel. Withdrawal without such an agreement, Ben-Gurion stated, would be tantamount to suicide.[384] In the private meeting with Secretary of State Dulles on Nov. 1 where Eban relayed that message, the Israeli ambassador reiterated that "Israel desired no territorial gain in Egypt" and had only acted because of the "mortal threat which Egypt presented." He said Ben-Gurion asked him to convey Israel's willingness to restore the armistice agreement and withdraw to those lines in exchange for guarantees regarding *fedayeen* activity and restoration of Israeli maritime freedom (including passage through Suez).[385]

Then, on November 7, Ben-Gurion began to change his tune. In his first speech to the Knesset since the war began, Ben-Gurion described the "lightning strike" which completely cleared "the Sinai Peninsula and the Gaza Strip of enemy forces" in what

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[383] Eban 1977, p. 215.

[384] Eban 1977, p. 218. Ben-Gurion initially demurred. He told Eban that the telephone line was not secure, and so he could not say whether or not Israel would withdraw.

[385] FRUS, doc. 462, p. 926. On November 4, the Israeli government sent a letter to UN Secretary-General Dag Hammarskjöld, in reply to his message and the UNGA resolution asking five questions which essentially made the same points. "Letter from Foreign Minister Golda Meir to Secretary-General Hammarskjold," November 4, 1956 in Dr. Meron Medzini (ed.), *Israel's Foreign Relations - Selected Documents*, Vol. 1. Viewed on the Israeli Foreign Ministry website: <http://www.mfa.gov.il/MFA/ForeignPolicy/MFADocuments/Yearbook1/Pages/5%20Letter%20from%20Foreign%20Minister%20Golda%20Meir%20to%20Secre.aspx>

the Prime Minister called "the greatest and most splendid military campaign in the history of our people and one of the most wonderful campaigns in the history of the world." While Ben-Gurion justified the invasion mainly on security grounds mentioned previously, for the first time, Ben-Gurion also publicly implied—though without stating explicitly—that Israel had territorial ambitions in the Sinai.

Ben-Gurion began by defining the Sinai as not an integral part of Egypt: "Our army did not violate the territory of Egypt nor did it attempt to do so… Our operation was restricted solely to the Sinai Peninsula".[386] Twice, Ben-Gurion sought to rename Sharm el-Sheikh by referring to "the site known until two days ago as Sharm el-Sheikh and which is now called the Gulf of Solomon…"[387] Ben-Gurion referred to the "Jewish independence on the island of Yotva [Tiran], in the southern part of the Straits of Eilat," an isle he called "liberated."[388] He also argued that "The flight of the officers of the Egyptian army as well as of the thousands of its soldiers provides ample evidence of the fact that they had no interest in fighting Israel *in an alien desert*."[389] All this was part of a larger strategy of weaving the Sinai into the larger Zionist narrative, whereby the Jewish historical presence connected the present Jewish people

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[386] Lorch, *Major Knesset Debates*, Vol. 3, p. 970. Ben-Gurion repeated this remark towards the end of his speech, "As I said before, our army was given strict orders not to cross the Suez Canal, not to violate Egyptian territory and to remain solely within the confines of the Sinai Peninsula." See p. 973.
    In making this point, Ben-Gurion was not cynically manipulating the public, but rather presenting his point of view, which he wrote in identical terms in his journal, in the cabinet meetings, and in his private remarks to the French leadership at Sevrés.
[387] Lorch, *Major Knesset Debates*, Vol. 3, p. 970 and 971.
[388] Lorch, *Major Knesset Debates*, Vol. 3, p. 971. In Hebrew, Ben-Gurion uses the term "נשתחרר" (*nishtaḥrar*). Protocol of Knesset Floor Debate, Nov. 7, 1956 (1st session). Author received a copy from the Knesset historian. Also available at *Dvrei Ha-Knesset* (Knesset Proceedings), Vol. 21 (1956-57), Nov. 7, 1956, p. 197. Ben-Gurion wrote in his diary that he had given a similar history in Sevres to the French and British when asked to whom the island belonged. See October 25, 1956, p. 314.
[389] My emphasis. Lorch, *Major Knesset Debates*, Vol. 3. On "alien desert," p. 977.

to that land. Truly, in that narrative, it was hard to overestimate the primacy of Mount

Sinai and the Sinai Desert:

> You [the IDF] have done something tremendous, something which
> surpasses any political or military significance; you have brought us
> nearer to the highest and most crucial moment in the ancient history of
> our people, to the site at which the Law was given, where our people
> was chosen to be a special people. Once again we see before our eyes
> the eternal verses from our Law which tell of the exodus from Egypt
> and the arrival of our forefathers in the Sinai desert…"[390]

Although Ben-Gurion would later admit he "made mistakes" in that speech,

claiming he was "too drunk with victory,"[391] his goal of expanding Israel's borders

preceded the military victory and the stances he enunciated pre-dated the war.[392] For

instance, in his diary, on September 9, 1956, Ben-Gurion recounted a meeting that day

in which he had disagreed with Haim Laskov, Commander of the Armored Corps,

about his war plan in the event a war should break out. "On the Syrian front we must

[only] stop [them] for we are not interested in taking [their] land. Jordan is the main

enemy from a point of view of land, Egypt - for power. We'll break both of them, one

after the other..."[393]

Likewise, in his initial probes with the French regarding joint action, one of

Ben-Gurion's three conditions was that Israel "obtain the coast of the Straits of Tiran."

This said, Ben-Gurion's motivation was not actually to control the land, rather "to

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[390] Lorch, *Major Knesset Debates*, Vol. 3, p. 975.
[391] Brecher, p. 283.
[392] Morris 2001, p. 280. Ben-Gurion was by no means alone. Chief of Staff Moshe Dayan also suggested Jordan be divided between Iraq and Israel, though Ben-Gurion feared Britain sought to give control to Iraq. Ben-Gurion's diary, Oct. 17, 1956, p. 303.
[393] As translated in Troen, p. 297.

enable us to exercise free passage in the Red Sea and the Indian Ocean so that Eilat will truly become a port…"[394]

At the outset of the Sevrés gathering, as well, Ben-Gurion went much further, proposing (in somewhat whimsical fashion) to his British and French interlockers a total redrawing of the Middle Eastern map. As Avi Shlaim describes the event:

> Jordan, he [Ben-Gurion] observed, was not viable as an independent state and should therefore be divided. Iraq would get the East Bank in return for a promise to settle the Palestinian refugees there and to make peace with Israel while the West Bank would be attached to Israel as a semi-autonomous region. Lebanon suffered from having a large Muslim population which was concentrated in the south. The problem could be solved by Israel's expansion up to the Litani River, thereby helping to turn Lebanon into a more compact Christian state. The Suez Canal area should be given an international status while the Straits of Tiran in the Gulf of Aqaba should come under Israeli control to ensure freedom of navigation.[395]

On the second and third days of the meeting at Sevrés, Ben-Gurion was far more specific, telling his counterparts what he saw as Israel's rightful territorial spoils from the joint operation:

> Israel declares its intention to keep her forces for the purpose of permanent annexation of the entire area east of the El Arish-Abu Ageila, Nakhl-Sharm el-Sheikh, in order to maintain for the long term the freedom of navigation in the Straits of Eilat and in order to free herself from the scourge of the infiltrators and from the danger posed by the Egyptian army bases in Sinai. Britain and France are required to support or at least to commit themselves not to show opposition to

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[394] Ben-Gurion's diary, Sept. 25, 1956, p. 299. The other demands were to included the British and inform the Americans, and that the French be made aware of the IDF's present limitations. All conditions were acceptable to their French interlockers

[395] Shlaim 1997, p. 515. Ben-Gurion in his diary describes these ideas on Oct. 19 and 22, see pp. 305-6.

these plans. This is what Israel demands as her share in the fruits of victory.[396]

While Ben-Gurion had clearly planned to expand Israel's borders,[397] specific plans (at least regarding the Sinai) were apparently not debated before the war in the cabinet. The question of annexation was only broached on November 3 (before the fighting had terminated), when Ben-Gurion met with his ministers to discuss the government's response to the UNGA's initial resolution. After reiterating his stance as he conveyed it to Eisenhower (withdrawal only in framework of peace), Ben-Gurion mentioned that many in Israel are wondering "What will we do with the Sinai Peninsula." The prime minister proposed "we say clearly and forcefully… that we will not move from it unless there will be peace and peace through direct negotiations; until then we are not moving."[398]

Ben-Gurion thought it best to postpone that debate. However, Minister of Development Mordechai Bentov, whose party *Mapam* ("United Workers Party") marked the left-most wing of the coalition government,[399] quickly returned to the

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[396] Shlaim 1997, p. 519. This is from the second day of the summit. Ben-Gurion repeated this demand on the third day, as the sides came to conclude their cabal: "'France and Britain have a vital interest in the Suez Canal,' he said forcefully. 'The Straits of Tiran are the State of Israel's Suez Canal.... We intend to capture the Straits of Tiran and we intend to stay there and thus ensure freedom of navigation to Eilat.'" Shlaim, p. 521.

[397] To be absolutely clear: Ben-Gurion sought to expand Israel's borders in the Sinai because he did not believe Egypt was ready to sign a full peace accord. His stance, as expressed in the cabinet and to Eisenhower, was that a full peace accord would negate the need for these territorial gains.

[398] Israeli Government Meeting, November 3, 1956 (Secret, Hebrew), ISA, p. 3. All translations of the cabinet are the authors.

[399] The cabinet was made up of 9 ministers from Ben-Gurion's Mapai party, 2 ministers from Mapam, 2 from Ahdut Ha-Avodah (Labor Unity), 2 from the National Religious Front, and 1 from the Progressive Party. The authoritative list is at the Knesset website: <http://www.knesset.gov.il/govt/heb/Govtbynumber.asp?govt=7> Here I include Sapir in Mapai and Carmel in Ahdut Ha-Avodah, despite neither having been elected, as they would run on those lists in

issue. Bentov's began by expressing concern some in the international community will start painting Israel as aggressors:

> Bentov: We must fight against this potential argument, that we are aggressors…. All aggression has a similar purpose: to conquer something, but we would announce that we have no intention of annexing Egyptian territory—that would destroy the base from under their legs.

> Finance Minister Levy Eshkol (*Mapai* party) [in Yiddish]: Don't be in such a rush.

> Minister of Transportation Moshe Carmel (Labor Unity party): What, is it Egyptian territory?

> Bentov: We can interpret that later. But it should be clear that the intention of the aggression, [correcting himself] of the attack, was not to conquer territory….

This quick exchange encapsulated the parameters of the ensuing cabinet debate. The first question was one of ultimate goals: should Israel aim to keep part (or all) of the Sinai or withdraw entirely. The second, albeit related, question was whether Israel should immediately announce its willingness to withdraw from Sinai, or leave it vague and bargain over that during peace negotiations. (Obviously, those who sought territorial gains opposed such an announcement.)

About the former question, there were at least two points of consensus: no minister thought Israel should withdraw before there was a peace accord, and no minister was in favor of returning the Gaza Strip to Egypt—even in the framework of

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the following elections. In opposition was Menachem Begin's nationalist Herut (Freedom) party; its mirror opposite, the communist party (Maki); the General Zionists; Agriculture and Development; the Democratic Party of Israeli Arabs; and Progress and Labor (Druze party).

a peace accord.[400] Where the cabinet lacked consensus was about whether Israel should be willing to withdraw from the Sinai if it was part of a full peace accord. While several agreed, a fair number of ministers also held that Israel had a legitimate claim to part of the Sinai. In which case, even in the event a peace treaty was successfully negotiated, Israel should try to maintain some part of it. One of the most vocal proponents of this view was Minister of Welfare and Minister of Religions (Haim) Moshe Shapira (National Religious Front party):

> Regarding Bentov's remarks, I want to say we can win the war and lose the peace. If we now start going down the path you have outlined—even though I am no big imperialist—if we declare now that we are willing to return to our borders, that means we will not be masters of the territory, rather [we will] return Nasser and his gangs there. What would be the point of that? *I think that part of Sinai belongs to us.* First of all, it did not belong to Egypt. [Ben-Gurion interjects: "It has never belonged to them."] Why has he [Nasser] won the right to possess the Sinai? First of all [sic], the Ministry of Development [Bentov's ministry] cannot give up on all of the Sinai. It requires caution. It's good that we rushed to conquer it, but we should not be in a rush to give it back.[401]

Minister of Education and Culture Zalman Eran (*Mapai*) held a similar approach. When Ben-Gurion speaks of peace, Eran said:

> …to me there is one word missing: "ve-tnaiyav" ["and its terms"]. Why is that word so pressing for me? We are demanded [by the UNGA resolution] to withdraw. About that you [Ben-Gurion] say

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[400] Bentov, who marked the left-most wing of the coalition, was asked specifically about whether he was proposing Jerusalem declare its willingness to withdraw "from the Gaza Strip as well," to which Bentov simply said "no." Likewise, the other minister from Mapam, Minister of Health Yisrael Barzilai, also said he favored staying in Gaza. Israeli Government Meeting, November 3, 1956 (Secret, Hebrew), ISA, pp. 6 and 13. Note: no vote was taken on these questions, but almost every minister present voiced his or her opinion.

[401] My emphasis. Israeli Government Meeting, November 3, 1956 (Secret, Hebrew), ISA, p. 17.

nothing, you do not say no and you do not say yes. You say peace. I wouldn't want that it might be understood from that statement, even for a single moment, that someone might grasp onto that and think it might conceivably mean something like withdrawal. When you include "and its terms" you prevent that.[402]

Ben-Gurion also believed that some part of Sinai would be Israel's in the end, though likely not all of it. When the idea of turning Sinai into an international zone with a UN force was raised, Ben-Gurion mentioned that "in the course of a conversation with a French official, I offered an international zone *outside of the areas which will be ours.*"[403] Although "that territory is five times the size of all of Israel," Ben-Gurion adds, strategically "Only one place there is of importance to us [Sharm el-Sheikh]." He added that three locations had oil, but only one "is abundant." "It is possible," the premier continued, "to easily bring the crude oil in trucks to Haifa and to reprocess it…"[404]

Like Ben-Gurion, Interior Minister Israel Bar-Yehuda (Labor Unity party) sought to hold on to Sharm el-Sheikh in order to prevent Egypt from renewing its blockade:

> I… don't know what it means 'do not conquer.' Regarding one place [referring to Sharm el-Sheikh]—I am willing to say a terrible word here—"imperialist"—I do want to conquer that spot and hold onto it, because it is the key with which we can exist and enter the Straits [of Tiran]. About other places, it is possible to think this way or that, [but not] about this place, even if it will be called 'conquest.'

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[402] Israeli Government Meeting, November 3, 1956 (Secret, Hebrew), ISA, pp. 18-19.
[403] My emphasis. Israeli Government Meeting, November 3, 1956 (Secret, Hebrew), ISA, pp. 13-14.
[404] Israeli Government Meeting, November 3, 1956 (Secret, Hebrew), ISA, pp. 7-8.

Bar-Yehuda then dismissed the possibility of handing over Sharm el-Sheikh to the British, as they had not guaranteed Israel's right to pass through Suez when they controlled it. "We need not call it conquest; we need not to help call it conquest by the way we phrase our statements, since we do not want conquest. We want to ensure free naval passage without hindrance, and that is in the face of concrete plans that existed only a week ago."[405]

On the second issue—should Israel declare immediately that it did not seek territorial spoils—not a single minister, not even Minister of Health Yisrael Barzilai (the other *Mapam* minister) supported Bentov's stance.[406] In addition to those who had territorial aims, the argument which won the day was that it was foolish to make a concession before bargaining had even begun.[407] By waiting, Israel would have more leverage at the negotiating table, thereby increasing the chance it would obtain a full peace treaty. Moreover, this stance created an opportunity to walk away from negotiations with a peace treaty and some small part of the Sinai.

This debate was re-ignited at the outset of the next cabinet meeting on November 7, when the ministers met to approve the text of Ben-Gurion's speech to the Knesset later that day.[408] The right-leaning Minister of Education and Culture Zalman

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[405] Israeli Government Meeting, November 3, 1956 (Secret, Hebrew), ISA, pp. 9-10.

[406] Barzilai said, "I do not think that we now need to detail the conditions for peace; regarding that we will meet again and discuss again. That is the way I understood Bentov's remarks, he did not mean as a reply to [UN Secretary General] Hammarskjöld." See Israeli Government Meeting, November 3, 1956 (Secret, Hebrew), ISA, p. 13.

[407] Pinchas Sapir put it thus, "why do I need to say today what I will need to say in a month? The wisest thing is not to say it before its time. Today we will say only that we do not agree to withdrawing the army, [and] that we want peace instead of an armistice agreement." Israeli Government Meeting, November 3, 1956 (Secret, Hebrew), ISA, p. 20.

[408] Ben-Gurion himself was sick and thus absent from the meeting.

Eran (*Mapai*) immediately pointed to the part of the speech where Ben-Gurion was to declare that the IDF did not "cross the Suez Canal, [in order] not to violate Egyptian territory and to remain solely within the confines of the Sinai Peninsula."[409] Eran pointed out that the "implication… is that it is not Egyptian territory, which says much and very little… and possibly requires a slight modification."[410] Bentov, as expected, was much broader in his criticism:

> Bentov: This speech in several places creates the impression of being an annexationist[411] speech. We had a difference of opinion about whether we need to say now that we do not have an annexationist aim in order to take that wind out of the sails, that we have no aim like that if there will be peace. But there is no need to say the opposite.
>   …I agree with Eran's remark, [though] maybe in the opposite direction. There is territory which is Egypt, there is territory which is not Egypt. One could make all sorts of historical claims. According to historical claims, one could say that there are other territories that need to be part of Israel. I take exception to the tenor of this argument.

> Eshkol: The Sinai Peninsula [being Egyptian] is not very ancient. The British appended it to Egypt.

> Bentov: Politically speaking, we recognize the borders that exist [today]. States fight until the borders that exist [today]. If we say that we did not enter Egyptian territory, then in fact we are saying that it will not return to Egypt. It means that it will remain in our hands.[412]

Eshkol then took a different tact, "We get totally upset and angry when others say we need to withdraw. Must we ourselves say that we will withdraw?" "We will not withdraw," Bentov responded, "until there are peace negotiations. At the moment

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[409] This is the second mention. See note 51 above (p. 973 in Lorch).
[410] Israeli Government Meeting, November 7, 1956 (Secret, Hebrew), ISA, p. 2.
[411] ["אנקסיוניסטי" or "annexionisti", not typical usage]
[412] Israeli Government Meeting, November 7, 1956 (Secret, Hebrew), ISA, p. 3.

when peace is forged, it will be decided where the border will be, [but] it should not be stated at the outset this is not Egyptian territory and we will not withdraw."[413]

Unlike the November 3 meeting, Bentov was far less isolated this time. Barzilai, the other Mapam minister, concurred with Bentov, "I also am of the opinion that we need not get into the issue of whether it is Egyptian territory or not Egyptian territory. To declare that it was never Egyptian territory is to make an unnecessary declaration."[414] Pinchas Rosen, the minister of justice (Progressive Party) likewise expressed concern for how the speech would be heard abroad:

> I imagine there will be someone who that will analyze the speech…
> and see here before them a man who has romantic aspirations. If he
> says here that 1400 years ago there was a Jewish state on some island,
> why not draw conclusions from that about all sorts of other territories,
> where as well it was part of the territory of [biblical] Israel?
>   I second everything that Bentov said about the veiled
> annexationist tenor here…. in general the whole determination that
> Sinai is not part of Egypt—that is, historically speaking, not politically
> speaking now—they will learn from this that we want to hold onto the
> entire Sinai Peninsula…. That stands a little in contradiction with [the
> stance of Russia, Britain, and France]."[415]

Domestic Reaction

In the Parliamentary debate that followed Ben-Gurion's Nov. 7 speech, all factions—spare the Israeli Communist Party (referred to by its abbreviation, *Maki*)—

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[413] Israeli Government Meeting, November 7, 1956 (Secret, Hebrew), ISA, p. 4. Bentov's remarks seem to contradict my contention about sides returning to the international border. However, Bentov supported Israeli annexation of Gaza—which Egypt had occupied since 1948—precisely because it was not part of recognized Egyptian territory.
[414] Israeli Government Meeting, November 7, 1956 (Secret, Hebrew), ISA, p. 4.
[415] Israeli Government Meeting, November 7, 1956 (Secret, Hebrew), ISA, pp. 7-8.

supported the government's basic position.[416] In each speech (again, save Maki), party leaders from across the political spectrum described the Gaza Strip as having been "liberated" or "restored to the homeland." Although most parties also stated their opposition to the return of Egyptian forces to the Sinai, many even rejecting the stationing of an international force there, Sinai was generally not referred to as "liberated." This was true even of parties who challenged Egypt's exclusive right to sovereignty there.[417]

As was true in the government discussions, only the parties solidly on the left seemed to have internalized the territorial integrity norm. After claiming that Israel had been a tool of British and French imperialism, Shmuel Mikunis (Maki) argued:

> A policy of territorial conquest is a two-edged sword, since it may create the precedent and basis for territorial conquests in the reverse direction, by the neighboring countries of Israel. Force cannot be the basis for peaceful coexistence between Israel and the Arabs. The time is past when it was possible to repress nations by force of arms and hold on to conquered territory on a long-term basis.[418]

Mapam, a solidly socialist party in the coalition which had broken with the USSR several years before, did welcome the "liberation of the Gaza Strip." It did so,

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[416] All factions except for Maki voted in support of Ben-Gurion's speech (vote was 88-3). In the second session, 6 speakers representing the entire gamut of the Israeli political spectrum took to the floor, giving a strong sense of the reaction of the *body politic* to the victory.

[417] See, for example, Israel Galili (Labor Unity party):

> Now the spaces of the Sinai desert have been cleansed. The Gaza Strip from where incursions came has been liberated, we occupy Rafah and El-Arish, and in one sweep the IDF has broken the blockade of Eilat…. We must never again allow the Sinai desert to become a launching pad for an invasion. With all our military and political strength and with all our love of justice and hatred of bloodshed, our nation has made up its mind that the Sinai desert will be an area of peace and defense for Israel, not one from which Israel may be attacked. Not only can we no longer agree to the redeployment of the Egyptians in Sinai, but we must firmly oppose the stationing of foreign troops in Sinai, so that Israel can never be attacked from there again. (Lorch, *Major Knesset Debates*, Vol. 3, pp. 987-88.)

[418] Lorch, *Major Knesset Debates*, Vol. 3, pp. 994.

however, because Gaza had been "invaded" by Egypt in 1948. It also based Israel's claim on security grounds, saying that the conquest of Gaza had "removed a malignant thorn from Israel's side." Meir Ya'ari, who spoke on behalf of the party continued, "I have no doubt that we are not attracted by the conquest of territory which is not ours." Similarly, when in the speech Ya'ari rejected a British proposal to impose a solution to the Palestine Question based on the Partition Plan of 1947, he rejected it on the grounds that it "clashes with Israel's territorial integrity…"

On the rightwing of the spectrum, the right to sovereignty was based, first and foremost, on historical claims to territory, regardless of how far back the claim went. As for Menachem Begin's *Herut* party (lit. "Freedom" party; predecessor of today's Likud), this was their core philosophy. As Begin put it in his speech:

> Part of the homeland which is under foreign rule does not cease to be part of the homeland. Alien conquest does not annul our eternal right to the land of our fathers and our sons. The work has not ended, there yet remains much land to be possessed, and any campaign undertaken in order to liberate the conquered areas of our homeland also constitutes use of our right to legal, national self-defense; that is also a way of maintaining our eternal right.[419]

Begin was not alone. MP Yitzhak Rafael (National Religious Front) laid claim to the Sinai in similar terms: "The areas which were sanctified with the blood of our sons were sanctified for the future as well as for the present. The Egyptians have no

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[419] Lorch, *Major Knesset Debates*, Vol. 3, pp. 980-81. I have adjusted Lorch's translation from "there remains yet very much land" to "there yet remains much land" as the former is not proper English. Begin also argued "that if Gaza was a town of our forefathers which was torn away from the homeland, what is Jerusalem, what is Hebron, what is Bethlehem? No longer will it be said in Israel, when we demand a campaign to liberate the land of our forefathers: 'aggression,' 'expansion,' 'that permanent border has been determined in the Rhodes agreements, and will remain where it is.'"

greater historic right to those areas than the People of the Book, for whom the event at Mount Sinai determined its entire future course."[420] Interestingly, as far as Rafael was concerned, this did not contradict Israel's "devotion to the U.N. as an institution of peace…" He continued:

> We remain faithful to its Charter and founding principles as well as to its basic essence, and we will support that institution whenever it acts in accordance with them. Nevertheless… the leaders of the U.N. must also recognize the new situations which have been created, and should not cling to obsolete tools. The Armistice Agreements, which served a temporary purpose, should make way for a peace agreement between us and the Arab peoples.
> …We will assail world public opinion in order to prove our justice and our love of peace; in order to convince it that our war is solely one of survival and that we have no intentions of conquest and imperialist expansion, and that we will make every effort to achieve peace with the Arabs, because we do not hate them.

The International Reaction to Ben-Gurion's Speech

Although Ben-Gurion accepted some of the minor suggestions made by his cabinet on November 7 regarding his speech, he ignored Bentov's general line of argument. As Bentov predicted, however, the international community reacted harshly. The speech was immediately condemned by friends (e.g. Canadian ambassador Pearson) and detractors (e.g. UN Secretary-General Hammarskjöld)[421] alike. The UNGA responded by passing resolution 1002, which for the first time since the crisis began mentioned Israel by name when demanding a withdrawal from

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[420] Lorch, *Major Knesset Debates*, Vol. 3, pp. 985.
[421] Brecher, p. 283. Ben-Gurion called UN Secretary General Dag Hammarskjöld "our number 1 enemy after Russia." Nov. 14, p. 321

Egyptian territory (previous resolutions only called on "all parties" to end hostilities and withdraw).[422]

The Eisenhower administration was especially furious. In their internal discussions, Eisenhower called the speech "terrible" and told his staff that "there was a need now to get really tough with the Israelis if they were taking, as reported, the stand on non-withdrawal from Sinai."[423] This tougher tone was manifested in a message from Eisenhower to Ben-Gurion that same day, and a particularly harsh meeting between Shiloah and the Acting Secretary of State Herbert Hoover, Jr. In his note, Eisenhower pointed out that it was the US itself who had initiated the UNGA resolutions calling for a cease-fire and withdrawal, which "received the overwhelming vote of the Assembly." He told the Israeli premier that "Any such decision by the Government of Israel [not to withdraw from Egyptian territory] would seriously undermine the urgent efforts being made by the United Nations to restore peace in the Middle East, and could not but bring about the condemnation of Israel as a violator of the principles as well as the directives of the United Nations." Of course, the United States has a "deep interest" in Israel, and had supported it "in so many ways", but precisely for those reasons, Eisenhower alluded, "I urge you to comply with the [UNGA] resolutions… and to make your decision known immediately." The president concluded that "It would be a matter of the greatest regret to all my countrymen if

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[422] Resolutions adopted by the General Assembly during its First Emergency Special Session from November 1 to 10, 1956. <http://www.unsco.org/Documents/Resolutions/GA_EMR_1(1956).pdf>.

[423] FRUS Suez, Doc. 549, "Memorandum of a Telephone Conversation Between the President and the Acting Secretary of State," (Washington) November 7, 1956 and FRUS Suez, Doc. 541, "Memorandum by the Director of the Executive Secretariat (Howe)," (Washington), November 7, 1956.

Israeli policy on a matter of such grave concern to the world should in any way impair the friendly cooperation between our two countries."[424]

The meeting with Hoover was even more blunt and dire. Hoover began by calling it "the most important meeting which he had had with representatives of Israel." He then recalled how Eban and Shiloah had previously promised that Israel was not about to attack, which was discredited before the meeting had even ended. Then there were Ben-Gurion's "assurances… that Israel did not seek territorial gains" a day later. "Therefore," Hoover said, "the Israel statements that they would not withdraw their forces came as a great shock to the United States. Withdrawal of Israel forces was perhaps the most important single element affecting the outcome of peace or war." Hoover then concluded with his "fears" that if Israel did not comply with the UNGA resolutions "and withdraw forces from Egyptian territory," that Israel would be seen as "flouting world opinion." In a thinly veiled threat, he said that this could impact "governmental and private aid so freely given heretofore by the United States." "It was virtually inevitable," the Secretary warned, that the UN would also pass a resolution calling for "strict sanctions" against Israel and conceivably it could lead to growing pressure to suspend or expel Israel from the United Nations.[425]

Israel knew that the international community would not be thrilled with Israel's refusal to withdraw, even anticipating the possibility of some sort of sanctions before

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[424] FRUS Suez, Doc. 550, "Message From President Eisenhower to Prime Minister Ben Gurion (Washington) November 7, 1956.
[425] FRUS Suez, Doc. 551, "Memorandum of a Conversation, Department of State," (Washington), November 7, 1956, 6:15 p.m.

Ben-Gurion's speech.[426] Yet, the tone in Washington was far harsher than Israel had expected. Before he saw the full report and note from Washington, Ben-Gurion was still hopeful, telling the cabinet, "in the parts [of Eisenhower's letter] I was informed of, nothing was said – not positive nor negative… about whether we stay in the Sinai, if we were to hold onto it or not, that issue is left open."[427]

Normally, Ben-Gurion could count on the organized American Jewish community to lobby on its behalf in order to soften the administration's stance. Yet, on the issue of annexing Sinai, even this community—which had lined up squarely in support of Israel's operation in the Sinai—refused to back Ben-Gurion. The President of the World Zionist Organization and the World Jewish Congress (a coordinating body for Jewish organizations), Nahum Goldmann, sent a secret message to Ben-Gurion on November 7. While reiterating the American Jewish community's support for Israel, Goldmann said there was one issue where "I must inform you of that it is impossible to obtain support for that on the American Jewish front," and that was "Israel's refusal to move from the Sinai, or even to transfer the bases to an international force in Sinai." He said leaders from American Zionist organizations would not even approve public diplomacy actions meant to present Israel's position on this matter (as it appeared in Ben-Gurion's speech.)[428] This stood in stark contrast to

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[426] Eban 1977, p. 219.

[427] Israeli Government Meeting, November 8, 1956, morning session (Secret, Hebrew), ISA, p. 4.

[428] Cable (encoded) from Nahum Goldmann to the Prime Minister Ben-Gurion, November 7, 1956. XA870 מברק מוצפן; 93.01/2213/12 :נוסח יוצא as found in *Foreign Relations of Israel*, Document 76, p. 91.

their willingness, even at the outset of hostilities, to defend Israel and criticize Eisenhower and his administration.[429]

A second source of mounting pressure was the previously mentioned Soviet threats, which appeared far more menacing as time went by. While the Israeli government never took Bulganin's letter of Nov. 5 lightly, it did not initially weigh heavily on the minds of Israel's leaders. The cabinet discussion of the draft response took only a few minutes, and few ministers felt a need to comment on the draft reply.[430] More importantly, while the letter was received on November 5, it did not affect Ben-Gurion's speech to the Knesset on November 7. Even after hearing about Soviet "volunteers" arriving in Syria and the Soviets shooting down two British high-altitude aircraft (which the prime minister said required the most sophisticated radar), Ben-Gurion concluded the discussion by saying that "the matter is not so frightening, even if it is quite grave."[431]

This changed over the course of November 7 and 8, as various reports began to stream in. First, there were reports that the Soviets were shipping massive arms and

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[429] Eban 1977, p. 213.

[430] The entire discussion about the letter can be found in Israeli Government Meeting, November 8, 1956, morning session (Secret, Hebrew), ISA, pp. 2-3. Ben-Gurion's response to the Soviets:

> I am constrained in conclusion to express my surprise and sorrow at the threat against Israel's existence and well-being contained in your note. Our foreign policy is dictated by our essential needs and by our yearning for peace. It is not and will not be decided by any foreign factor. As a sovereign state we decide our path by ourselves, and we join with all other peace-loving peoples of the world in striving for relations of peace and justice in our area and the entire world. (As reprinted in the *New York Times*, November 8, 1956.)

[431] Israeli Government Meeting, November 8, 1956, morning session (Secret, Hebrew), ISA, pp. 3.

"volunteers" to Syria and that they "are preparing for an attack on Israel."[432] France told Israel about a CIA report (leaked to them by the US) which said the Soviets intended to "flatten" Israel the next day, apparently via missile strike.[433] Yet another report said the Soviets offered Syria and Jordan a guarantee of aid should a war break out with Israel—aid including Soviet bombing of Israeli targets and air force bases. "The aim," Ben-Gurion told his cabinet, "is to totally remove the British from Jordan, to reduce Israel to [1947, i.e. Partition plan] borders, to create a common border between Egypt, Jordan, and Syria, and to eliminate the Baghdad Pact."[434]

Most disconcerting, Israel began realizing that it would face this Soviet threat alone. In addition to the American threats,[435] Foreign Minister Meir reported to the cabinet on her trip to Paris the preceding day to discuss the Soviet threats with the French. In theory, the French were very supportive of Israel's positions (e.g. no Israeli withdrawal without peace negotiations); however they, too, feared the Soviet threats. Shooting down two British ultra-high reconnaissance aircraft indicated a "substantial and capable Soviet presence."[436] Moreover, the Americans had been tough with the French as well, telling Paris that they would not come to their aid in defense of the

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[432] Ben-Gurion's diary, Nov. 7 and 8, 1956, p. 318; and Israeli Government Meeting, November 8, 1956, afternoon session (Secret, Hebrew), ISA, p. 2.

[433] Brecher, p. 285. The government seems by this point to believe that the threat is very real. Barzilai said on Nov. 8, "The Russians are not about to bomb the French or the British. We may be bombed tonight or tomorrow." Israeli Government Meeting, November 8, 1956, afternoon session (Secret, Hebrew), ISA, p. 4.

[434] Israeli Government Meeting, November 8, 1956, afternoon session (Secret, Hebrew), ISA, p. 2.

[435] A number of things suggested to Israel's government that the U.S. would not protect it from a Soviet attack. For instance, Golda Meir reminded the cabinet that U.S. Undersecretary of State Herbert Hoover Jr. told Israeli Charge d'Affairs Shiloah that "the first country to be swallowed up into the Russian chasm would be Israel. He did not say they would act to counter it, just told it." Israeli Government Meeting, November 8, 1956, afternoon session (Secret, Hebrew), ISA, p. 9.

[436] Israeli Government Meeting, November 8, 1956, afternoon session (Secret, Hebrew), ISA, p. 6.

Soviets so long as they and Britain had not publically accepted the UN resolutions. Meir said she had found her French interlockers terribly depressed, seeing no way out of the crisis except to accept the UNGA resolutions. As Meir explained Israel's stance regarding borders and withdrawal, Pinot replied that "Well, [it seems] you really are prepared to stand up to Soviet bombing. [Because] there is no doubt that the Soviets will act."[437]

Finally, Eban at the UN in New York called Ben-Gurion "all terrified" sending cables which Ben-Gurion said, "sow fear and horror." "There should not even be a shadow of a doubt," Eban wrote Jerusalem, "that the great powers intend to introduce an international force." While the US was not prepared to use force against its allies, "the Soviets would." In fact, even the British had suggested their willingness to use force to ensure the introduction of an international force in the Sinai—which Eban characterized as a way of repairing their damaged image in the region. As a result, Eban concluded, Israel would likely end up fighting the great powers in the Sinai if it did not succumb to the UN demand to accept the withdrawal of IDF forces.[438] As Foreign Ministry Director General Walter Eytan told Ben-Gurion, "The whole world, except for France, is uniting against us because of our staying in Sinai. But even France will not be able to support us to the end."[439]

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[437] Israeli Government Meeting, November 8, 1956, afternoon session (Secret, Hebrew), ISA, pp. 4-5.

[438] Cable (encoded) from Abba Eban to the Foreign Minister Meir and Prime Minister Ben-Gurion, November 7, 1956. XA854 מברק מוצפן; 93.01/2213/12 :יוצא נוסח as found in *Foreign Relations of Israel*, Document 72, p. 87.

[439] Ben-Gurion's diary, Nov. 8, 1956, p. 318.

With threats mounting, Ben-Gurion led the government to conduct a total about-face. He told the cabinet that they will reply to Eisenhower and Hammarskjöld "[announcing] that the government of Israel accepts the UN decision, and as soon as the necessary arrangements are made for the international force, we will withdraw from Egyptian territory." A similar formula, Ben-Gurion mentioned, had been used by the French and British in their announcements.[440] Illustrative of the sea change that had occurred, Bentov suggested the government declare its willingness "to transfer the Sinai to an international force," to which Ben-Gurion responded, "The UN did not demand that. The UN demanded withdrawal. We need to have a sense of what is realistic, and transferring control to an international force is not at all the question before us." Bentov asked if this meant the Egyptians would return to areas from which Israel withdraws. Ben-Gurion answered, "There is a decision by the UN about the removal of foreign forces which we must respond to—are we leaving or are we not leaving? My opinion [is] to write that we are leaving."[441]

Unlike the British or French, however, it was unclear what it meant to withdraw from "Egyptian territory." The following discussion also illuminates how far the cabinet moved within a single day:

> Minister of the Police Shalom Sheetrit (*Mapai*): Withdraw? Until where?
>
> Ben-Gurion: It [the UNGA resolution] says "immediate removal of forces from Egypt."
>
> Sheetrit: Gaza is [part of] Egypt?

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[440] Israeli Government Meeting, November 8, 1956, afternoon session (Secret, Hebrew), ISA, p. 4.
[441] Israeli Government Meeting, November 8, 1956, afternoon session (Secret, Hebrew), ISA, p. 8.

Ben-Gurion: In my opinion, no.

Minister of Trade and Industry Pinchas Sapir: The British spokesman said that this issue requires legal examination.

Cabinet Secretary Ze'ev Sheraf: He said that regarding the Island of Tiran, *as opposed to the Sinai Peninsula, whose legal standing is clear.*[442]

While the vast majority of the cabinet realized by this point that Israel would be unable to keep the Sinai, there were two spots which most (including Ben-Gurion) considered exceptions. The first, as noted above, was Gaza. The second was Sharm el-Sheik, which as previously mentioned, was critical due to its strategic location in the Egyptian naval embargo.[443] Israel's fallback position was to play for time and win support for its position on these two areas.[444] As part of that strategy, in Ben-Gurion's statements announcing his about-face, he never explicitly said Israel would withdraw from Gaza, rather "Egyptian territory." Similarly, in his attempt to exonerate Israel,

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[442] My emphasis. Israeli Government Meeting, November 8, 1956, afternoon session (Secret, Hebrew), ISA, pp. 7-8.

[443] Barzilai: On our front we have a few problems. Does this mean we will withdraw from everything? If the conditions are fitting or not fitting?... What interests me is whether we will also withdraw from the Gaza Strip? {Ben-Gurion: No.} A second crucial point is Sharm el-Sheikh, which is the location which controls the Straits of the Red Sea [Straits of Tiran]. I want to determine this issue of what are the 'fitting conditions' and if there will also be an international force there or not or whether the Egyptians will return there. {M. Carmel: Or whether we will not leave there.}…
Carmel: … In contrast to Barzilai's opinion, that we must make clear statements, I think that we need to make statements which could be interpreted this way or that. I cannot imagine that we can withdraw from the Gaza Strip or the Straits [of Tiran]… we must wage this diplomatic fight, and there is room left to battle for other parts of the Sinai…. Even if we reach a point where we must withdraw, we should be able to say that the withdrawal does not include the Gaza Strip or the Straits [of Tiran] {Ben-Gurion: Of course it is inconceivable that we will withdraw from the Gaza Strip.}. Israeli Government Meeting, November 8, 1956, afternoon session (Secret, Hebrew), ISA, pp. 5-6.

[444] See, for instance, Ben-Gurion's diary, Nov. 10, 1956, p. 319.

Ben-Gurion claimed, "We have never planned to annex the Sinai Desert," conveniently leaving out the Gaza Strip.[445]

To some extent, Israel achieved a degree of success. Ben-Gurion's announcement was sufficient to end the threat of immediate Soviet military attack. Even though it quickly became evident to all actors that Israel's announcement had not included Gaza, that real threat of military action did not re-emerge.[446] The extent to which Gaza was treated differently from the Sinai became especially apparent during a meeting on November 26, held between Eban and Shiloah and State Department officials. Eban told them the UN force could solve the problems of Israeli withdrawal from Sinai, especially if it guaranteed freedom of shipping in the Straits of Tiran. The discussion about Gaza, however, was very different. As the State Department summary of the meeting reads:

> Regarding the long-term future of Gaza, Israel had been vague. The question for decision was whether the whole structure of the State of Israel, which had been based on a heavy Jewish majority, should be changed. On the other hand, Israel's absorption of Gaza and the assumption of responsibility for the people living there could be a large contribution to an ultimate settlement. Until this matter had been decided by the Israelis, Israel had no juridical aim in Gaza. For the

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[445] FRUS Suez, Doc. 560, "Message From Prime Minister Ben Gurion to President Eisenhower," November 8, 1956. Ben-Gurion's radio address to the Israeli public was also rather generous in describing his speech to the Knesset the preceding day, "None of us knows what will be the fate of the Sinai desert. In my review in the Knesset yesterday I passed over this great question in silence, not unintentionally." "Israeli Government Statement, 8 November 1956" in Dr. Meron Medzini (ed.), *Israel's Foreign Relations - Selected Documents*, Vol. 1. Viewed on the Israeli Foreign Ministry website:
<http://www.mfa.gov.il/MFA/ForeignPolicy/MFADocuments/Yearbook1/Pages/12%20Israeli%20Government%20Statement-%208%20November%201956.aspx>
[446] See, for example, FRUS Suez, Doc. 578, "Minutes of the Second Meeting of the Delegation to the General Assembly, Two Park Avenue, New York," November 15, 1956.

present, Israel would seek a non-Egyptian solution for Gaza which would leave open the possibility of eventual Israel sovereignty over the Strip.[447]

In stark contrast to the tone of meetings pre-November 8, the State Department officials did not protest the idea and did not threaten Israel should it seek to annex Gaza.[448] Even when Israeli officials discussed Gaza with Hammarskjöld, they also reported that he saw the legal status as different from the Sinai, and so was willing to postpone discussion of what should happen there.[449]

So why did Israel eventually decide against annexation and withdraw its forces from Gaza as well? Eban's message to the Americans, it turns out, was actually a very clear representation of what was happening at the time. Throughout November and December, the Israeli cabinet debated the issue on a number of occasions, and eventually, Ben-Gurion and most of the cabinet decided that annexing Gaza was more trouble than it was worth. "After solid consideration of the issue," he told the cabinet in late December, "I think that annexing Gaza—by this I mean turning Gaza into a legal part of the state of Israel—would be a disaster for Israel. We will not be able to absorb 300,000 more Arabs in the country." If push came to shove, Ben-Gurion said, this demographic danger was far more worrisome than the security risk posed by the

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[447] FRUS Suez, Doc. 615. Memorandum of a Conversation, Department of State, Washington, November 26, 1956.

[448] See also FRUS Suez, Doc. 635, Memorandum of a Conversation, Department of State, Washington, December 3, 1956.

[449] Hammarskjöld, according to Eban, urged Israel to refrain from "making statements concerning their long range ambitions [regarding] Gaza," particularly due to its complicated legal status. FRUS Suez, Doc. 625, "Telegram From the Mission at the United Nations to the Department of State" (New York), November 29, 1956.

threat of renewed *fedayeen* attacks.[450] While he said he was unsure of its political feasibility, the best outcome for Israel would be *de facto* security control using its police force while the UN would administer the territory. (Ironically, *Mapam* minister Barzilai was arguably the biggest detractor, adamantly arguing that Israel must fully annex Gaza—despite the concerns Ben-Gurion raised—because Israel would better be able to ensure the *fedayeen* did not reignite their attacks.)[451]

FM Meir informed Secretary Dulles of Israel's decision regarding the non-annexation of Gaza during their conversation on December 28. Meir discussed Israel's fear that a UN force would be unable to prevent *fedayeen* attacks, suggesting that it would administer the Strip "until a permanent solution could be found." Meir continued, "If a permanent solution involved Israel's taking over the strip, Israel would assume responsibility for the indigenous population of the strip and a share of the refugees there." In response, Dulles said the United States had "no ideas regarding the problem of Gaza, which was quite complex. It was not Egyptian territory, neither was it encompassed by the Israel armistice line."[452]

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[450] Israeli Government Meeting, December 23, 1956 (Secret, Hebrew), ISA, pp. 24 and 27.

[451] Israeli Government Meeting, December 23, 1956 (Secret, Hebrew), ISA, pp. 31-32.

[452] FRUS Suez, Doc. 671, "Memorandum of a Conversation, Department of State, Washington, December 28, 1956." Meir told Dulles:

> Gaza presented a simpler problem in that it had never been Egyptian territory. Israel did not wish to annex the strip but insisted that it not be returned to Egyptian control. The presence of United Nations forces in the strip would not solve the problem but would only provide a shield behind which *fedayeen* could operate. Israel could administer the Gaza strip until a permanent solution could be found. If a permanent solution involved Israel's taking over the strip, Israel would assume responsibility for the indigenous population of the strip and a share of the refugees there. Mrs. Meir hoped that the United States would suggest to the Secretary General that he not press for immediate Israel evacuation from Sharm al Sheikh and Gaza for a few weeks so that all concerned could work diligently for a permanent solution.

See also FRUS, Arab-Israeli 1957, Doc. 3, "Telegram From the Embassy in Israel to the Department of State, Dec. 31, 1956.

Although Israel had withdrawn from almost all of the Sinai by mid-January, it refused to withdraw from the Eastern coast (including Sharm el-Sheikh) and Gaza unless it was given firm security guarantees. Over January and February, both Eisenhower and Hammarskjöld hardened their views, renewing their calls for a full withdrawal to the 1949 Armistice lines—only then would Eisenhower discuss guarantees. On January 19, 1957, the UNGA overwhelmingly passed yet another resolution calling for a full Israeli withdrawal. Eisenhower's view, as he put it in a letter to Ben-Gurion, was that the UNGA:

> has no authority to require of either Egypt or Israel a substantial modification of the Armistice Agreement, which, as noted, now gives Egypt the right and responsibility of occupation. Accordingly, we believe that Israeli withdrawal from Gaza should be prompt and unconditional, leaving the future of the Gaza Strip to be worked out through the efforts and good offices of the United Nations.[453]

When Israel refused to comply, the Eisenhower administration again began threatening Israel with economic sanctions. Yet, Eisenhower was far more isolated than in November. Internationally, several other leading NATO countries declared they would not cooperate with any sanctions regime on Israel, and France even pledged to increase its military sales to Israel.[454] Domestically, the administration encountered enormous backlash. Leading newspapers—which had initially been highly critical of the Israeli incursion—now came out against the administration's putting pressure on Israel. Both the Senate majority and minority leaders came out

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[453] FRUS Arab-Israeli Conflict 1957, Doc. 78, "Aide-Mémoire From the Department of State to the Israeli Embassy," Feb. 11, 1957.
[454] Alteras, pp. 258-268.

publicly against the idea of sanctions, and as Secretary of State Dulles told his ambassador at the UN, the opposition to sanctions in Congress was so "overwhelming" that he anticipated *a unanimous vote against sanctions* in both Houses.[455] This left the administration trying to prevent the Israelis from realizing the administration was about to lose its authority to impose sanctions.

Finally, after extensive negotiations between Jerusalem and Washington, on March 1, Golda Meir announced at the UN that Israel was willing to withdraw from both Sharm el-Sheikh and Gaza. In return, Israel received a clear statement that resumption of the blockade would be opposed by the international community and considered a *casus belli*. Israel handed over Gaza to the UN force, although it was only a matter of days before the Strip was returned to Egyptian control.

EXPLAINING SUEZ

The following section considers what light the preceding case sheds on the theses discussed at the outset of the chapter. It begins with a discussion of the territorial integrity norm and then discusses the various alternative hypotheses.

The Territorial Integrity Norm

Overall, an enormous amount of evidence emerges from this case to support the thesis that the territorial integrity norm was central to the way the episode unfolded. In terms of the Gaza versus Sinai quasi-experiment, in both domestic and

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[455] FRUS 1957, Doc. 86. Memorandum of a Telephone Conversation Between the Secretary of State in Washington and the Representative at the United Nations (Lodge), Feb. 12, 1957. Secretary Dulles then mentioned "the terrific control the Jews had over the news media and the barrage which the Jews have built up on Congressmen."

international contexts, actors considered Israel's claims to Gaza as far more legitimate than its claims to the Sinai. Moreover, the norm itself was actually explicitly enunciated on numerous occasions, during Israeli cabinet discussions, in the Knesset debate, in private meetings between officials, and in public messages and UN resolutions.

Regarding the quasi-experiment, amongst Israelis, Gaza was very frequently referred to as "liberated" by politicians across almost the entire political spectrum, and in the immediate aftermath of Israel's victory, not a single minister agreed that Israel should return it to Egyptian control. Regarding Sinai, on the other hand, there was both far less unanimity regarding whether Israel had a legitimate claim to the Peninsula, and even those who did advocate territorial gains in Sinai never argued for it with the same conviction. Importantly, there were also different justifications given for why Israel should annex the two areas. Gaza was generally referred to as part of the "homeland"—despite the fact that Jewish history had little connection to that area. Claims to Sinai, on the other hand, were most often justified on the grounds that Egypt had used the area for illegitimate ends (blockade, *fedayeen* attacks, preparing for a future war to destroy Israel) and it was assumed would do so again the moment Israel left. In addition, some decisionmakers questioned Egypt's historical right to sovereignty over the Peninsula because it was of 'recent' pedigree. As Egypt's right was questionable, and the area had no other "rightful" owner, Israeli leaders felt Israel was as proper a claimant as any other—especially given that it did have some historical connection to that land.

Internationally, the moment Israel hinted at having territorial ambitions in the Sinai, it was faced with the most extreme threats from friend and foe alike, including strict international sanctions, expulsion from the UN, and even military intervention. Most indicative of the strength of the norm was that even pro-Israel organizations in the United States felt Ben-Gurion's November 7 speech was indefensible.[456] On the other hand, when in late November Israeli officials explicitly told their American counterparts—and even the generally unsympathetic Hammarskjöld—that they were actively contemplating annexing Gaza, no one responded similarly. No one claimed it would be inexcusable or that it would threaten to undermine the entire international system, so much as they suggested that it was not especially wise to make such an announcement at that time.

This said, the time-series quasi-experiment aspect of this case turned out to be tainted, as Ben-Gurion's statements to some extent simply affirmed what Eisenhower and others had feared was Israel's intention all-along: to annex more territory.[457] As a result, we cannot know for sure why Eisenhower immediately began contemplating the use of sanctions and even blockade in response to Israel's invasion. It is noteworthy that the Eisenhower administration never transmitted an explicit threat until Ben-Gurion's speech on November 7, even though it had considered coercion

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[456] Another interesting anecdote took place days before Ben-Gurion's speech, when British officials—who knew from the outset what Israel's aims were—began telling Israeli officials they would need to return to the border. As one minister quoted the British argument to the cabinet, "you yourselves said that your intention was to strike the *fedayeen* bases, and the *fedayeen* bases have been destroyed, so why must you maintain an army there?" Israeli Government Meeting, November 3, 1956 (Secret, Hebrew), ISA, p. 14.

[457] Some accounts of the first principles meeting at the White House include a quotation of Eisenhower saying that this shows Ben-Gurion was an extremist who sought territorial expansion. Alteras, p. 224.

before November 7. And when the US did issue its threats on November 7 following Ben-Gurion's speech, these were far more severe than what Eisenhower and company had discussed at the outset. Likewise, all of the immediate attempts to come to an understanding with the Israelis (e.g. the Sherman Adams offer, Dewey's comment) stressed the same thing: while Eisenhower was upset with the attack, the central concern was that Israel announce it had no intention of staying. Also slightly problematic for the territorial integrity norm was that the Soviet threat did not begin on November 7, but preceded it by two days. Yet, once Israel announced it would leave Egyptian territory, both the Soviet and American threats subsided, again suggesting that it was territorial conquest which was considered particularly illegitimate.

Finally, the way in which the cabinet discussed the Sinai and Gaza is also demonstrative of the degree to which various members of the Israeli cabinet had internalized the territorial integrity norm. Bentov most clearly grasped the normative environment in which Israel was operating. He realized that the great powers would not allow Israel to keep the Sinai, and that by announcing early on that it had no territorial ambitions, it would reduce international criticism and pressure. If it did not, the international community would force Israel's retreat anyway, only with far less goodwill toward the country, while at the same time demonstrating that Israel was in fact vulnerable to international pressure.[458]

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[458] As Bentov said, "I understand that colleagues here do not want—with some justification—to obligate ourselves now regarding Sinai. On the other hand, there is a danger, and I think it is a certainty, that they will not leave us all of the Sinai…. I think that it will not end well, that in the end there will be

Even ministers on the opposite end of the coalition—those who clearly advocated for annexation—still had some notion that "imperialism" and "conquest" had become unacceptable, as seen in the way they prefaced their comments. The arguments they put forward mostly centered on certain circumstances justifying the violation of that norm (i.e. when a competing norm would justify it; here the gross infringement of Israel's right to freedom of the seas). Furthermore, those Israelis who claimed a right to the Sinai never based their claims on the right of military conquest, a claim which would have been reasonable during the previous century. Rather, they were based on the historical connection of the Jewish people to that land and the supposedly tenuous Egyptian historical claim of only having been sovereign over the area for several decades.

Although Bentov understood the environment in which Israel is operating, Ben-Gurion acted as if previous rules still applied. This is why he thought it reasonable to propose a total redrawing of the regional map at Sevrés, and why he believed that having a major power patron would be sufficient to shield Israel from the diplomatic fallout. This is also why on November 3, he told the cabinet he thought it likely "that the UN intends to give a stamp of approval to the British-French occupation." [459]

Still, while Ben-Gurion thought Israel had a right to spoils of war in the Sinai and cast doubt on Egypt having exclusive claim to the entire peninsula, towards the

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an impression that our intention was to grab [territory], but that under British, French, and American pressure, we were forced to give up and that they [the British, French, and Americans] saved Egypt…." Israeli Government Meeting, November 3, 1956 (Secret, Hebrew), ISA, p. 22.

[459] Israeli Government Meeting, November 3, 1956 (Secret, Hebrew), ISA, p. 24.

end of the cabinet discussion on November 3, Ben-Gurion (in urging ministers not to threaten Syria) made a comment which demonstrates some awareness that his stance on Sinai—and that of the cabinet—is not in line with the global norm. "For [Minister of Welfare and Minister of Religions] Shapira," Ben-Gurion said, "it is about Mount Sinai. But for the world it is territorial conquest. [We captured] a large part of Egyptian territory and we did that through the use of force in contradiction to the UN."[460] In late December, Ben-Gurion told his ministers, "The American government does not see any option now for maintaining the present arrangement. She, (as before) seeks to preserve the sovereignty and territorial integrity of all states in the Middle East. This time, it does not work to our advantage."[461]

So why did Ben-Gurion and his cabinet believe they could successfully pursue territorial conquest? Israel's experience with the UN until that point had generally taught them that the body was only successful at issuing declarations which had almost no material impact on events.[462] In 1948, Arab states had ignored the UN partition plan and attacked the Jewish state with the intention of destroying it, and the

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[460] My emphasis. Israeli Government Meeting, November 3, 1956 (Secret, Hebrew), ISA, pp. 26-27.
[461] Israeli Government Meeting, December 23, 1956 (Secret, Hebrew), ISA, p. 21.
[462] As Ben-Gurion told the UN's General Burns:

> the condemnations are of no consequence to our neighbors and the murdered are murdered. In any case, we are not willing to accept double standards. The first two articles of the UN Charter are being kept and the UN does not protest or prevent the injustice. The Security Council's decision regarding free rights of passage for our ships is not kept and no one raises his voice—until England is hurt—and then it does not turn to the UN but prepares to take action on its own. (Ben-Gurion's diary, Wed. Sept. 3, 1956, in Troen, p. 296)

Ben-Gurion in his speech to Knesset on January 23, 1956, pointed to all of the following Arab examples (he did not mention Israeli annexation in this speech). See Lorsh, pp. 1024-25. His point was to demonstrate UN ot regarding the vigor in which it was willing to enforce UNGA resolutions against Israel while it was not willing to lift a finger to punish Egypt for its violations, even of a binding UNSC resolution. While Ben-Gurion was frustrated by the UN's hypocrisy, it constitutes some of the evidence that he was surprised by the harshness of international reaction to his Israel's actions.

UN stood by. After the tide had turned and Israeli forces conquered areas not accorded it in the partition plan, Israel was able to annex those areas with no real resistance. In the end, Israel was recognized by other countries and admitted in the UN according to those post-partition plan borders. Likewise, after the UNSC had passed resolution 95 in 1951 condemning Egypt's blockade of Israel, in practice, the UNSC resolution went unenforced and Nasser continued the blockade without interference. The UN also failed to prevent *fedayeen* attacks and failed to respond to Arab calls for Israel's destruction.[463] The point being that even if the UN were to condemn Israel, their experience had suggested that the UN would not translate words into deeds. This was especially likely to be true given that France and Britain were now allied with Israel, and having signed off on the Sevrés document, were to prevent action in the UN Security Council. While it might have been foreseeable that the international debate would move to the UNGA, it was not possible to predict that UNGA resolutions would take on the weight they did.

Alternative Hypotheses

Domestic politics

One factor that can be rather clearly ruled out as critical in this case is domestic politics. In Israel, Ben-Gurion exercised unchallenged leadership in the governing coalition, especially once he fired Moshe Sharett. Thus, Israel essentially pursued Ben-Gurion's policies, be they territorial expansion or returning to previous borders.

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[463] The Israeli opposition likewise criticized the UN. See, for instance, Speech by opposition member P. Bernstein in the Knesset, Oct. 16, 1956, in Lorsh, p. 957.

The opposition parties also supported the government's position—both the attempt to claim sovereign rights over the Sinai and Gaza (spare the Communists) and the decision to back down in the face of external pressure (spare the nationalist *Herut*).[464] In the months leading up to the war, the government had been criticized both by the left and right regarding its retaliatory raids, with both left and right calling them immoral and ineffective at deterring further attacks. That said, whereas the dovish opposition called for renewed efforts to reach peace, the main (hawkish) opposition called for immediate conquest of Arab territories, and at least in the West Bank (which includes many areas of biblical importance), including their annexation.[465]

In the US as well, domestic politics was not a motivating force. To the contrary, as soon as the Eisenhower Administration began fearing that a major Israeli attack was imminent (though they believed it to be against Jordan), Eisenhower during internal meetings with his senior advisors set the tone that his administration "in this matter could not and should not be influenced by domestic political considerations." If anything, Eisenhower and other officials were furious in their perception that the Israelis, British, and French had initiated this action on the eve of the election because it might hamstring them from action. They were determined to act regardless:

> It would be a shame, [Eisenhower] said, if the American leadership should make its decisions on any basis other than what was right and what was in our overall national interest. He would not under any circumstances permit the fact of the forthcoming elections to influence

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[464] MP Rokeah (General Zionists party) said, "We agreed to the Sinai Campaign… but could not ignore the severity of the threats which impelled the Prime Minister to state our readiness to withdraw our forces from Egyptian territory." Lorch, p. 1022.

[465] See, for instance, the speech made by leader of the opposition Menachem Begin on Oct. 15, 1956.

his judgment. If any votes were lost as a result of this attitude, that was a situation which would have to be confronted, but any other attitude would not permit us to live with our conscience.[466]

The Norm against Interstate Aggression

Interestingly, there was some modest evidence suggesting there is a broader norm against using force as a way to resolve political disputes (ala Kellogg-Briand Pact). This theme appeared in both the public pronouncements and private discussions of senior American officials. For example, when Eisenhower addressed the American public on the crisis on October 31, he said his administration had thought the French, British, and Israeli actions to be "in error." "For we do not accept," the president continued, "the use of force as a wise or proper instrument for the settlement of international disputes."[467]

Similarly, during a meeting the next day between Dulles and the Israeli delegation in Washington, Dulles explained that the United States was concerned that:

> current developments had been a grave blow to the structure of peace and to the United Nations. It would not be possible just to wipe out events that have been taking place. We should not think only in terms of returning to the status quo ante but in terms of the precedent which might be set that any nation which is harassed could strike back with military force. Could we say that Pakistan could strike at India? If so, military anarchy would result.[468]

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[466] FRUS Suez, doc. 344. Memorandum of a Conversation, Washington, October 15, 1956, 11 a.m.
[467] President Dwight Eisenhower, Address to the Nation, October 31, 1956. <http://www.presidency.ucsb.edu/ws/?pid=10685>.
[468] FRUS 1956, p. 927. Also see:
--The December 28 meeting between Dulles and Meir, where Dulles says, "The Secretary had stated publicly that there had to be processes remedying injustice as a counterpoise to the renunciation of force. The adequacy or inadequacy of those processes was not justification for the use of force; however all who wished to avoid force must see the injustices remedied." FRUS Suez, Doc. 671, "Memorandum of a Conversation, Department of State," (Washington) December 28, 1956.

However, this norm was far from robust. Shiloah's response to the Secretary is instructive in this regard. He replied that "Pakistan might find it necessary to strike if Indian leaders uttered threats against it. Had any Indian leader so spoken?"[469] Likewise, Israel did eventually extract a statement to the effect that if Egypt renewed its blockade it could legitimately use force to end it. Soviet behavior also casts doubt that any such norm held sway. Not only had they used brutal military force to repress the uprising in Hungary immediately before the Suez crisis, but they had also suggested to the Americans using military force to resolve the Suez crisis itself.

Finally, if this was the norm that was driving international behavior, then why was there a difference in the way actors treated Gaza and Sinai (as discussed above)? In short, though occasionally appearing in the rhetoric employed, this norm failed to win wide acceptance and did not determine decisionmaking.

The Norm of Self-Determination and Conquest No Longer Pays

Another alternative hypothesis that received mixed support was the thesis that conquest no longer pays. On the one hand, the cabinet level discussions strongly

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--In its instructions to US embassy in Israel on January 5, the State Dept. said:

> In introducing Nov. 2 UNGA resolution Secretary said were we to agree that existence of injustices which UN had so far been unable to cure meant that principle renunciation of force could no longer be respected, that whenever a nation felt it had been subjected to injustice it should have right resort to force to correct that injustice, we would be tearing UN Charter to shreds and world would again be world of anarchy.

FRUS Arab-Israeli 1957, Doc. 6. "Telegram From the Department of State to the Embassy in Israel," January 5, 1957.
[469] FRUS 1956, p. 927.

suggest that this—and not the territorial integrity norm—was the primary reason Israel did not seek to annex Gaza. Ben-Gurion and a majority of the cabinet thought the 300,000 inhabitants would create greater problems for the state—jeapordizing Israel's clear Jewish majority—than any advantage that could be accrued by annexing the Strip. In this context it is worth pointing out that the entire Arab population of Israel in 1956 was just over 200,000 (out of a total of 1.9 million), meaning this would more than double the Arab minority in Israel.[470] At the same time, as discussed previously, Gaza itself truly presents few benefits. It location is of modest importance and it totally lacks natural resources.

On the other hand, precisely because this should be a shining example of the "conquest no longer pays" thesis, it is puzzling that initially there was such a wide Israeli consensus on annexing Gaza and that it took nearly two months for Israel's government to conclude what should have been obvious from the outset. What exactly was there to deliberate about? Even more problematic for the thesis is that it cannot explain what prevented Israel from annexing the Sinai (or parts thereof). Had there not been international pressure, Ben-Gurion would not have conducted his about-face on November 8. He and others clearly saw great value (oil, strategic location, few inhabitants) in maintaining parts of the Sinai. Yet this thesis argues that it is no longer in the self-interest of states to conquer and annex, not that states refrain from annexing territory because of international pressure.

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[470] Israel's Central Bureau of Statistics, Statistical Abstract of Israel 2010, No. 61, Table 2.1 Population by Population Group, available at: <http://www1.cbs.gov.il/reader/shnaton/templ_shnaton_e.html?num_tab=st02_01&CYear=2010>.

Potentially, the self-determination norm could explain why Israeli ministers spoke of "imperialism" as an anathema, as almost every coalition party had deep roots in socialist philosophy (for example, almost every party had the word "workers" in the name, including Mapai and Mapam). The Soviet Union made anti-imperialism a centerpiece of its foreign policy and used it as the justification for its actions in the Suez crisis. Yet, if this were the case, then there should have been much stronger consensus about annexing the Sinai, which was mostly barren desert, while these same socialists should have rejected the idea of annexing the Gaza Strip with its 300,000 Arab inhabitants. Instead, one of the most socialist ministers (Barzilai) was arguably the most vocal opponent to Ben-Gurion's decision not to annex Gaza. Also problematic for this explanation is that at no point was the idea of Palestinian self-rule ever raised as an option for Gaza—not by Israel and not by any state or the UN Secretary-General. Additionally, no one argued that Israel's annexation of the Sinai would impinge on the local Benduin's right to self-determination. The only claim made was that it impinged on Egypt's territorial integrity.

Realpolitik

On the surface, this alternative hypothesis receives considerable support in the historical record. Throughout the American discussions (before and after the fighting), there is a central pre-occupation with how the Soviets will respond and whether this crisis will help them make gains in the Arab world. For instance, on November 7, the President met with Dulles, telling him that they should invite Eden to come for

consultations about "'what the Bear will do and what we would do in the face of the Bear's acts.'" There "was no point now in indulging in recriminations with the British," the president continued, "but rather that we should jointly consider what should be done in the face of the Russian threat." Dulles, for his part, saw "a danger that the Russians might really attempt to take advantage of the situation by coming to the aid of the Arabs."[471] Likewise, when the U.S. rakes Israel over the coals privately, the State Department instructed several relevant ambassadors to inform their host governments of it. Even as late as February 20, during a briefing with congressional leaders, Eisenhower argued that if Israel failed to complete its withdrawal, it would "lead to increased influence of Russia in the Arab world" and increase the "possibility of a general war."[472]

The Israelis also believed this was a primary motivating force for Washington. On November 8, Ben-Gurion wrote in his diary that the reason the US is threatening "to sever all ties with us… stop all assistance and possibly expel us from the U.N." is because "Apparently the fear of Russia has fallen on them."[473] Likewise, the threat of Soviet intervention in the conflict or in starting a new conflict in conjunction with Syria was a key factor that pushed Israel to back down over the Sinai.

Another *realpolitik* consideration was that on December 25, Nasser threatened to keep the Canal closed to shipping, thus cutting off oil supplies to Europe, until

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[471] FRUS Suez, Doc. 542, "Memorandum of a Conversation, Secretary Dulles' Room, Walter Reed Hospital," (Washington) November 7, 1956, 11:10am. See also, for example, FRUS Suez, Doc. 302, "Message From the Secretary of State to the President," (New York) October 5, 1956.
[472] Alteras, p. 268.
[473] Ben-Gurion's diary, Nov. 8, 1956, p. 318.

Israel completely withdrew, including from Gaza.[474] This move did succeed in getting other states to press Israel for a full withdrawal, including influencing votes at the UNGA.

Still, the quasi-experimental aspect of this case shows the limits of this explanation. If the primary concern was the Soviets, then why was there any difference between Sinai and Gaza? Again, there was universal, instantaneous condemnation of Ben-Gurion's Nov. 7 speech hinting at territorial ambitions in the Sinai (which even American Jewish organizations would not support); yet when Israel explicitly told American and UN officials two weeks later that they were contemplating annexing Gaza, the response was neutral. Although both the Eisenhower administration and Hammarskjöld would eventually decide that Israel should return to the armistice lines, their stand was far from universally supported. Finally, it is worth pointing out that a primary reason Hammarskjöld eventually decided that Israel should withdraw from Gaza was that he had sought—even before the war began—to convert the armistice lines of 1949 into *de jure* borders. Thus, the use of force to violate those borders—from the UN Secretary General's perspective, and to a lesser extent, the U.S. administration as well—was similar to a violation of the territorial integrity norm. Similarly, Eisenhower throughout the crisis negotiated from the principle that an aggressor state could not legitimately negotiate its

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[474] *New York Times*, December 26, 1956.

withdrawal from occupied territory—it simply should withdraw, because any such negotiation would lead to some political gain for the aggressor.[475]

THE GOLAN LAW (1981)

Background

During the course of the Six Day War in 1967, Israel came to occupy East Jerusalem, the West Bank, Gaza Strip, Golan Heights and Sinai Peninsula. Although initially no Arab country was willing to sign a peace accord, in 1979, Egypt and Israel signed the Camp David Accord, followed by a full peace agreement in 1981. As part of the treaty, Israel agreed to withdraw from the entire Sinai Peninsula—requiring the removal of thousands of settlers—in exchange for peace with Egypt, including full diplomatic and commercial relations. In addition, Israel agreed to begin "autonomy talks" with the Palestinians.

For their parts, Lebanon, Syria, Jordan and the Palestine Liberation Organization (PLO) refused to conclude a similar deal with Israel, and the Arab League expelled Egypt for its willingness to conclude a separate peace. Syrian defiance became particularly adamant, with President Hafiz al-Asad stating on several occasions that under no circumstances would he sign a peace deal with Israel—even if the PLO did.

Domestically, Begin had barely managed to win re-election in June 1981, beating out the Labor party by a mere half a percentage point. He also was concerned

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[475] Alteras, p. 281(?)

about growing opposition from the far-right of the political spectrum, from parties like *Tehiya*. In September, several groups came together to create the Movement to Stop the Withdrawal (MSW), which aimed at stopping the withdrawal from the Sinai, particularly the removal of Israeli settlements there, scheduled for April 1982.

The Golan Law

On the morning of Monday, December 14, 1981, Menachem Begin met with his Defense Minister, Ariel Sharon, and his Foreign Minister, Yitzhak Shamir, and without any advance notice, informed them that before the day was done, the government would extend Israeli law to the Golan Heights.

As is true for most democracies, major legislative undertakings do not usually happen overnight. In order to accomplish this, Begin convened a special session of the cabinet.[476] After obtaining unanimous approval from the cabinet, Begin then pushed the bill through two committees,[477] and three readings of the bill on the floor of the Knesset. The bill's final reading was approved by a majority of 63 to 21, including eight MPs from the opposition Labor party.

This maneuver was extremely rare, as proposed legislation is usually given to MPs long in advance and several weeks are required between passing the first and second readings in order to provide MPs, the media, and others a chance to learn the proposed law and form their opinions on it. Begin's secrecy beforehand and urgency

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[476] The cabinet generally only meets on Sundays, and in fact, had just met the day before. However, the Knesset (Israel's parliament) does not convene until Mondays. Thus in order to pass this in the same day, the special session had to be called.

[477] Foreign and Defense Affairs, and the "Knesset committee" which sets the body's legislative agenda.

afterwards were motivated by the same consideration: to produce a *fait accompli* before the rest of the World, and especially the United States, realized what was afoot and tried to stop them.[478] Begin understood full well that the United States and the rest of the international community would oppose the move. When presenting the bill to the government, he foresaw the likely consequences of what he called "a bold step." "I'm sure that the U.S. will issue a protest, calling it a unilateral step, and saying it does not recognize unilateral steps and that they think that this move is invalid," Begin told his ministers. He then predicted, "This is approximately what I will receive in a démarche from Secretary Haig or President Reagan." Begin also warned that the UNSC would likely meet and issue "a most harsh censure" which the U.S. would not veto and which might even be unanimous. "This is a bold step," he repeated in his conclusion, "and one must anticipate all kinds of diplomatic outcomes. The nation, I think, in this regard will be united."[479]

The law Begin proposed to the cabinet was extraordinarily simple (40 words). Lacking any preamble, the law read:

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[478] Ben-Meir interview. For the same reason, Begin would tell the US ambassador, Begin did not ask permission ahead of time, as he knew the US would say no. Avner, p. 587.
Begin's timing might also have aimed to take advantage of the fact that global news was focused on the crackdown of the Solidarity movement in Poland. However, this is mere conjecture, and the historical record as available does not include evidence that this was on Begin's mind.
[479] From the Statement of the Sixth Prime Minister, Menachem Begin, at the Government Meeting on the Golan Heights. Gideon Sa'ar (ed.). December 14, 1981. Hebrew, author's translation. Found at the Begin Center Database website: <http://db.begincenter.org.il/he-il/%d7%9e%d7%93%d7%99%d7%a0%d7%95%d7%aa/%d7%91%d7%a8%d7%99%d7%98%d7%a0%d7%99%d7%94/%d7%94%d7%a6%d7%92%d7%aa-%d7%97%d7%95%d7%a7-%d7%a8%d7%9e%d7%aa-%d7%94%d7%92%d7%95%d7%9c%d7%9f-%d7%91%d7%9e%d7%9e%d7%a9%d7%9c%d7%94.htm>

1. The Law, jurisdiction and administration of the state shall apply to the Golan Heights, as described in the appendix.
2. This Law shall become valid on the day of its passage in the Knesset.
3. The Minister of the Interior shall be charged with the implementation of this Law, and he is entitled to enact regulations for its implementation.[480]

How 'bold' the law was, however, is disputable. From the wording of the law through the talking points used to defend it later, Begin specifically sought ambiguity on the most important question: was the government of Israel annexing the Golan? Nowhere in the text does it use the words 'annexation' or 'sovereignty.'[481] That omission was not accidental. On August 10, 1981, MP Geula Cohen of the right-wing *Tehiyya* (Revival) party (which had split from Begin's *Likud* due to their opposition to the Camp David Accords) submitted a private bill entitled "Proposed Bill: Israeli Sovereignty on the Golan." The law is nearly identical to the bill eventually submitted by Begin in December, but Cohen's bill stated plainly, "From the day this law is enacted, the Golan will be included in the sovereign territory of the State of Israel and the law, jurisdiction and administration of the state will be applied."[482] In her explanation for why the law was necessary, Cohen wrote, "…so long as this law does

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[480] ISA, Proposed Law-Golan Heights Law, Folder 9048 \ 24-ג. The only change made from Begin's initial proposal to the final law as passed was in section 3. It required the interior minister to consult with the justice minister, and added at the end of the sentence, "and to formulate in regulations transitional provisions concerning the continued application of regulations, orders, administrative orders, rights and duties which were in force on the Golan Heights prior to the application of this Law." The law, as passed, can be found at: The Golan Heights Law - 5742/1981, 14 December 1981. Israel Foreign ministry website, <http://www.mfa.gov.il/MFA/ForeignPolicy/MFADocuments/Yearbook5/Pages/83%20The%20Golan%20Heights%20Law%20-%205742-1981-%2014%20December.aspx>

[481] Lustick 1997, p. 35 makes a similar point regarding East Jerusalem.

[482] Correspondence (including a copy of the proposed legislation) from Cabinet Secretary Aryeh Naor to PM Menachem Begin, Aug. 16, 1981. ISA, Folder 41358/29 – גל

not exist, there will be an eternal temptation for the enemy to see the Golan as an object that is still subject to negotiation and territorial compromise."[483]

Begin's formulation was far more vague. In fact, when presenting the bill to his government, one of the first questions asked was whether this law was "tantamount to annexation?" As one of Begin's senior aides, Yehuda Avner, describes the scene, "Either the prime minister did not catch the question, or he chose not to hear it."[484] The sole explanation Begin gave his cabinet for the precise wording he chose was as part of a wider explanation about Israel's historic right to the territory. After arguing that all previous governments agreed that the Golan would remain in Israeli hands, even in the event of a peace treaty with Syria, Begin explained:

> The question was always when to do the act and 'apply the law, jurisdiction and administration' – these words were taken from the 1967 law which relates to the areas of the Land of Israel – on the Golan Heights. However, we cannot rely on this [1967] law with respect to the Golan Heights, as the Land of Israel – from a legal perspective, not an historical one –the Land of Israel is within the Mandate borders. And pursuant to the agreement between France and Britain, the border was established between Syria and the Land of Israel 10 meters east of the coast of the Sea of Galilee, and not on the Golan Heights.[485]

This issue would re-emerge in the debate on the floor of the Knesset later that day. Likud MPs generally followed the prime minister's ambiguity on this issue, but opposition MPs—as well as some right-wing MPs who were part of the coalition—

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[483] Correspondence (including a copy of the proposed legislation) from Cabinet Secretary Aryeh Naor to PM Menachem Begin, Aug. 16, 1981. ISA, Folder 41358/29 – גל
[484] Avner, p. 580. Avner bases this on the minutes of the cabinet meeting which he had access to, but remain classified.
[485] PM Menachem Begin's cabinet statement.

frequently referred to it as annexation. Geula Cohen thought it was sufficiently close to annexation for her to announce that she was withdrawing her private bill on the matter.[486] Tawfik Toubi (an Israeli-Arab member of *Hadash*, a new iteration of the Israeli Communist Party) railed against the government for exactly this reason:

> This is a law annexing the Golan Heights, the Syrian territory that was conquered in 1967. This is annexation of territory, defined by all international treaties and agreements as Syrian national territory. And the historical arguments that we heard today from the Prime Minister and representatives of coalition will not help. The international borders—which Israel undertook to respect when it was established in 1948—define in the most explicit manner that the Golan Heights are located within the sovereign territory of the state of Syria.[487]

Given the reaction of many Knesset members, one might believe that the law was tantamount to annexation. However, towards the end of the debate on the floor came this exchange between Amnon Rubenstein (*Shinui*, a centrist, secular opposition party) and Begin:

> Rubenstein: …I have no doubt that the vast majority in the Knesset and the public supports this move and would support even more extreme measures, would support the annexation of the West Bank and the Gaza Strip, and would support blowing up [Arab] homes. I have no doubt that I represent a minority opinion here, but… history is full of examples [where] the majority is wrong…

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[486] It is interesting to note that the Legal Department of the Israeli Foreign Ministry did not see the two laws as identical. In an internal memo, legal adviser Alan Baker noted that the two laws were significantly different. Begin's law had "no mention of sovereignty or annexation" whereas Cohen's law specifically mentioned sovereignty. This said, Baker pointed out that there only "exists a very thin line between extending jurisdiction and a declaration of sovereignty or annexation." He then suggested the ambassador not compare Begin's law with Cohen's proposed law.
Cable 348, from Alan Baker to Washington, Dec. 15, 1981, Folder 6899\ 1 – חצ Foreign Minister Yitzhak Shamir, Golan Heights Law, ISA.
[487] Proceedings of the Knesset (Hebrew), December 14, 1981.

To which Begin replied:

> …You say you know that the vast majority of the public is in favor of applying the [Israeli] law on the Golan Heights. *You use the word "annexation", I do not use it.* That is how the law is written. That is how we wrote it in 1967… the Government may, by issuing an order, apply the law, judgment, and administration of the State for any area of the Land of Israel, as prescribed in the order. My friend, but the law does not apply to the Golan Heights because from a legal perspective, the Land of Israel is the territory of the [British] Mandate, so we brought a special bill. That is the reason.[488]

The way Begin formulated his response was not altogether novel, not even for Begin himself. Following the Six Day War in 1967, Israel moved to unify *de facto* the city of Jerusalem. Yet, it appears—quite likely in light of the experience of 1956—that Israel sought a way to establish control over Jerusalem but without provoking the ire (and the coercive response) of the international community. Thus, officially, Israel passed several seemingly banal laws regarding the city, but whose unstated purpose was to end the 19 years of division. Regardless, on July 4, the UNGA passed resolution 2253 criticizing Israel's laws aimed at "changing the status of the city."[489] UN Secretary-General U Thant then requested Israel's reply to the resolution. According to then-Foreign Minister Abba Eban, the official reply that he prepared was drafted with assistance from Minister of Religions Zorach Warhaftig and Minister without Portfolio Menachem Begin. Delivered to the U.N. Secretary General on July 10, 1967, Eban's letter included a key passage: "The term 'annexation,' [used in the speeches of the resolution's proponents] is out of place. The measures adopted related

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[488] My emphasis. Proceedings of the Knesset (Hebrew), December 14, 1981.
[489] Text of UNGA Resolution 2253.

to the integration of Jerusalem in the administrative and municipal spheres and furnish a legal basis for the protection of the Holy Places."[490]

While Israel was criticized for its moves in Jerusalem, the costs it paid were not even close to those it was threatened with in 1956. Although merely speculation, it is quite possible that the historical experiences of 1956 and 1967 shaped Begin's policy on maintaining ambiguity come the Golan Heights Law. In fact, even after the bill was passed, ambiguity would remain central to the way Israeli spokesmen were to discuss the issue. Classified instructions issued from the Foreign Ministry to its representatives abroad put the issue in almost farcical terms:

> Regarding Israel's legislative step: You will certainly be frequently confronted with the question of whether we have annexed the Golan Heights. In our opinion, the answer must be in step with the language of the law, no more and no less, that is to say, [the law] applies the law, jurisdiction and administration of Israel [to the Golan]. The law does not speak of annexation and there is no need to confirm "annexation" because it is not spoken this way in the law [sic]. At the same time, one must not confirm that this is not annexation in order to avoid being exposed to unnecessary criticism. Therefore, one should stick to the formulation of the law without adding or derogating [from it].[491]

Israel's deliberate ambiguity seems to have proven effective. Concerning both East Jerusalem (at least before 1980) and the Golan Heights, even among Israeli legal experts there is still no consensus regarding whether Israel has actually annexed these

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[490] Eban, p. 442.

[491] Document entitled "For public diplomacy ("להסברה") (classified, Hebrew) ISA, Folder 6899\ 1 – חצ Foreign Minister Yitzhak Shamir, Golan Heights Law.

These instructions came too late for Israel's ambassador in Washington, who was asked on a morning news program on Dec. 15 if the move meant "that the Golan Heights will remain under Israeli sovereignty forever?" to which Amb. Evron replied, "That's what the law says." See cable 514-72, Folder 6899\ 1 – חצ Foreign Minister Yitzhak Shamir, Golan Heights Law, ISA.

two areas.[492] In fact, even Israeli Supreme Court Justices have been of two minds on the matter.[493] Yet, what Israeli legal scholars concur on is the reason for the ambiguity. As one Israeli scholar in a debate on the subject wrote: "I agree with Sheleff [author presenting the counter-point] that the Knesset intentionally avoided referring to the unequivocal term 'annexation.' The Knesset did so, at the government's urging, in order to minimize international reaction to the passage of the law."[494]   So why did Begin believe Israel should embark on the policy if it was bound to pay diplomatic costs? One potential explanation was Begin sought to shore up support amongst his political base ahead of the Sinai evacuation. If this was a goal, it was effective. Yet, it would be misguided to claim that this was simply a cynical political maneuver. The legislation reflected Begin's core political philosophy, the same nationalist philosophy underlying his policies and speeches since he began his career in politics decades before.[495]

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[492] See, for example, the debate in the *Brooklyn Journal of International Law* between two Tel Aviv University law professors. Leon Sheleff, "The Application of Israeli Law to the Golan Heights Is Not Annexation," *Brooklyn Journal of International* Law, Vol. 20, pp. 333-353 (1994); Asher Maoz, "The Application of Israeli Law to the Golan Heights is Annexation," *Brooklyn Journal of International Law* Vol. 20, pp. 355-396 (1994).

       Prime Minister Menachem Begin's mind seems to have been settled on the matter. He would eventually be quoted as saying in a cabinet meeting in March 1982 that, "The Golan is an inseparable part of the state of Israel, by a law passed by an overwhelming majority" of the Israeli Parliament. See David K. Shipler, "Israeli Cabinet Affirms Policies on Arab Protest," *New York Times*, March 29, 1982.

[493] Ibid.

[494] Asher Maoz, "The Application of Israeli Law to the Golan Heights is Annexation," *Brooklyn Journal of International Law* Vol. 20 (1994), p. 370, note 74.

[495] As seen in his speech on November 7, 1956, quoted above. See note 85.

Domestic Reaction, round 1

The debate on December 14 was stormy. Prime Minister Begin's remarks introducing the bill to the cabinet and to the Knesset contained certain themes that, in many ways, were reminiscent of Ben-Gurion's speech to the Knesset on November 7, 1956. One justification was security: Begin recalled how Syria used the Golan as a platform for attacking Israeli civilians between 1948 until Israel conquered it in 1967. Again, similar to Ben-Gurion, Begin implied that Syria had forfeited its right to the territory because it had been misused.

Begin also described the Syrian government's total refusal to enter peace negotiations with Israel. Besides Asad's public statements to this effect, in the cabinet meeting (which was classified) he spoke of the Syrian Foreign Minister's private speech to other Arab leaders that they must never make peace with Israel, even if they must "wait a hundred years and more" to destroy it. If for 15 years the Syrian government refused to accept UNSC Resolution 242, and promises never to do so in the future, then why must Israel be obligated not to claim a territory it intends to keep in any case in any peace treaty?

Yet, like Ben-Gurion in 1956, Begin also based Israel's claim to the territory in historic terms, arguing that Israel had strong historic claims to the territory while Syria's claim was based on a historical fluke of recent pedigree. As he told his ministers:

> It is obvious, that we all know that the Land of Israel included the Golan Heights. However, and this I also will suggest in public, there was a time in which the colonial powers set borders in an arbitrary

manner. Today there is no fear to say that. Two colonial powers [England and France], in an arbitrary manner, decided that the northern border of Israel would not go through the Golan Heights, rather below the Golan Heights. And the fact that they did so only proves that they did so arbitrarily.[496]

As could be ascertained from the quotation above, the Communist party (*Hadash*) was unequivocally opposed to the entire endeavor, both because it reduced the prospects for peace and because it violated the territorial integrity norm. Yet, what is interesting in their rebuke is the rationale Toubi provided for the harm that will come to Israel by violating the norm:

> The Israeli government undertook to honor [UNSC Resolution] 242, which rejects annexation of territory seized by force of arms. And here comes the Begin government, and it takes this adventurous decision, contrary to international law and the decisions the family of nations, which Israel must respect out of self-interest and concern.
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> When the Israeli government casts away all restraint, rebelling against any obligation to respect international laws, decisions taken by UN institutions and accepted ways in which countries conduct their relations… its behavior even goes beyond the law of the savage jungle. Thus the government relinquishes the protection of the laws and conventions in the international system which Israel needs perhaps more than any other country. The Likud government has assumed a heavy responsibility, by undertaking this crazy step, as it forfeited Israel's status as a law-abiding state and transforms Israel into an [outlaw] state who steals and robs by the sword.[497]

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[496] PM Menachem Begin's cabinet statement. Similarly, see speech by MP Benny Shlita (Likud), where he says that the borders were established by mere "fluke," by colonial powers, lacking any "roots" to the place, solely on the "basis of passing interests." Proceedings of the Knesset (Hebrew), December 14, 1981.

[497] Proceedings of the Knesset (Hebrew), December 14, 1981. Toubi made a second related point about the consequences of violating the norm: "…this is an act which proves the Likud government's ambitions and plans for limitless expansion and annexation. The Likud government, by basing its claims on historical boundaries, proves the Zionist rulers' lust for expansion and annexation all the way

However, as Begin had predicted in his remarks to the cabinet, the other leftwing or centrist parties had a more difficult time opposing the bill because there was a wide consensus about the Golan's strategic importance.[498] With the opposition Labor party (the largest opposition party) boycotted the initial debate, several right-wing parliamentarians noted that Labor had been responsible for creating the settlements on the Golan in the first place. They also noted that Labor's leaders (Yitzhak Rabin and Shimon Peres) were both part of the "Golan Lobby" and had signed a petition the previous year calling for annexation of the Golan. So why, asked MP Geula Cohen rhetorically on the Knesset floor, had they not submitted this bill when they were in power? Because they are afraid, she continued, "of what they [the international community] will say."[499]

MPs from the centrist parties *Telem* and *Shinui* likewise stated that the Golan should remain in Israeli control indefinitely. However, they voiced two main concerns with the law. First, as Rubenstein pointed out, it would in no way improve Israel's hold on the Golan, while almost certainly forcing the issue to the forefront of international attention and bringing upon Israel harsh condemnation because it would be seen as a violation of international law. Second, they argued that Israel has long

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to the Euphrates and perhaps to the Nile. You prove that this government does not want any peace settlement with the Arab states that will determine Israel's borders. You prove that your intention is not for peace."

[498] Begin was essentially right when he told his cabinet that "in practice a national consensus exists" about the Golan, to the effect "that if ever there should be launched negotiations on a peace accord between Israel and Syria, that Israel will not come down off the Golan Heights. This approach is the same as for us as it is for the Labor Party, as well as the small factions in the Knesset, except for the Communist Party, of course."

[499] Proceedings of the Knesset (Hebrew), December 14, 1981. See also the remarks of Ben-Tzion Rubin (*Tami*).

"opposed… any whittling away of Security Council resolutions 242 and 338," but that the Golan Law would do precisely that. MP Mordechai Ben-Porat (*Telem*) was partial to Begin's historical claims, but argued that it was not possible to act according to them: "Each of us torn between his connection to the history of our people, settling the West Bank, the Golan Heights and southern Lebanon, and the reality and limitations that we are faced with."[500]

Interestingly, besides elaborating on the historic connection between the Jewish people and the Golan, one Likud MP (Benny Shlita) speaking in favor of the bill argued that extending one's law after military conquest has historically always been legitimate, essentially denying the territorial integrity norm exists: "I do not [understand] what the concerns were [with applying Israeli law after 1967]. Already during the period of Ancient Rome, the Romans would immediately apply their laws to any area they [conquered]." [501]

The International Response

The immediate American reaction was as Begin had predicted. Upon hearing about the move, Secretary of State Alexander Haig told the press, "We regret the announcement that we learned about today. We feel that it was not consistent with the provisions of [UNSC Resolution] 242 which is the fundamental UN resolution underlying the peace process itself."[502] At the State Department briefing on December

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[500] Proceedings of the Knesset (Hebrew), December 14, 1981.
[501] Proceedings of the Knesset (Hebrew), December 14, 1981.
[502] Cable (Hebrew) 247 from Amb. Evron in Washington to Foreign Minister Director General, Dec. 14, 1981, 17:30, in Folder "Begin - US" א/8193-7, ISA. [Pic 3503]

14, spokesman Dean Fischer said that the US opposes any unilateral effort "to change the status quo of the Golan [Heights]" or any other territory occupied since 1967, as it would be both contrary to 242 and "would violate international law relating to belligerent occupation."[503] On December 15, Secretary of Defense Casper Weinberger told a leading TV morning news show that the law was "unnecessarily provocative."[504]

On the 14th, Secretary of State Haig called Israeli Ambassador Evron to demand a clarification of what had happened. Haig said that the Israeli action had created a very problematic situation. "It had acted unilaterally in contradiction to UN Security Council resolution 242, even though it is clear that if and when negotiations with Syria take place, Israel will get what she seeks there." (The Israeli ambassador took this to mean that the US would support Israel's demand for control over the Golan.)[505] But now, Haig said, Israel had forced the US to vote with Syria in the UN in condemnation of Israel. That Israel would take such a drastic step without informing its ally, Haig said, "was an affront to us." Haig said the action would destroy the autonomy talks with the Palestinians, lead to a negative reaction from Egypt, and would harm American attempts to forge peace between Israel and additional Arab

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[503] ISA, Folder A. Cable (Hebrew) 239 from Amb. Evron in Washington to Foreign Minister Director General, Dec. 14, 1981, 17:00. [Pic 3502]

[504] He appeared on ABC's Good Morning America. Cable 514-72, Folder 6899\ 1 – חצ Foreign Minister Yitzhak Shamir, Golan Heights Law, ISA

[505] The Israeli Foreign Ministry also used quotations from Jimmy Carter (from the summer of 1976, when he was running as a candidate for President) to the effect that Israel would never be expected to give up the Golan. Cable 232, Folder 6899\ 1 – חצ Foreign Minister Yitzhak Shamir, Golan Heights Law, ISA. [Pic 13.25.07]

states. Haig then said that all of the positive developments from the past year had disappeared "with the wave of a hand."[506]

Reaction from other Western countries followed similar themes. The Foreign Ministers of the European Community issued a statement on December 15 to "strongly deplore" the law, calling it "tantamount to annexation" and "contrary to international law, and therefore invalid in our eyes." Echoing Haig's sentiment, the ministers said "This step prejudices the possibility of the implementation of Security Council Resolution 242, and is bound to complicate further the search for a comprehensive peace settlement in the Middle East..."[507]

Other individual governments issued similar rebukes. Claude Cheysson, the French Minister of External Relations, said the law was fundamentally opposed to international law,[508] while Sweden "deeply deplored" the decision, which it also said was a "clear violation of international law" and 242.[509] The Canadian Foreign Ministry said it "extremely opposes [sic] such acts,"[510] and the foreign minister told parliament that the law was "a step towards annexation," which is contrary to international law.[511]

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[506] ISA, Folder א/8139-4. Cable (top secret, Hebrew) 251 from Amb. Evron in Washington to Foreign Minister Shamir, Dec. 14, 1981, 21:00. "Matzav Hamur" translated into "very problematic" but the cable is in Hebrew relaying a conversation in English. [Pic 3500]

[507] U.S. National Security Council (NSC), Golan Heights: Briefing Material for Meeting in Sitrm at 4:30pm, December 16, 1981. CIA Archives, Doc No (ESDN): CIA-RDP84B00049R000601430018-4, Tab. F.

[508] Cable (Hebrew) 235(?) from Israeli Embassy in Paris to Jerusalem, quoting AFP, dated Dec. 15, 1981. Folder 6899\ 1 – חצ Foreign Minister Yitzhak Shamir, Golan Heights Law, ISA.

[509] Cable (English) 52(?) from Israeli Embassy in Stockholm to Jerusalem, dated Dec. 15, 1981. Folder 6899\ 1 – חצ Foreign Minister Yitzhak Shamir, Golan Heights Law, ISA.

[510] Cable (English) 23(?) from Israeli Embassy in Ottawa to Jerusalem, dated Dec. 15, 1981. Folder – חצ 6899\ 1 Foreign Minister Yitzhak Shamir, Golan Heights Law, ISA.

[511] Cable (Hebrew) 24(?) from Israeli Embassy in Ottawa to Jerusalem, dated Dec. 15, 1981. Folder – חצ 6899\ 1 Foreign Minister Yitzhak Shamir, Golan Heights Law, ISA.

Even Turkey—itself an occupying power which would set up the Turkish Republic of Northern Cyprus in the face of similar criticism less than two years later—condemned the "fait accompli," saying it would never recognize Israeli control there. The statement went on to condemn other Israeli policies, especially settlements, saying Israel continued its policies despite being condemned by international public opinion and the UN.[512]

The Arab world was obviously far harsher. Syria called the law "a declaration of war" and demanded the international community intervene on its behalf. Almost every other Arab state stridently condemned the move, with many claiming it demonstrated Israel's expansionist aims, and called for unified opposition. Egypt called it a flagrant violation of the Camp David Framework Agreement and UNSC resolutions. However, Egypt said it would continue to maintain the peace accord with Israel.[513]

In fact, of all the reports of foreign reactions following into the Foreign Ministry on the 15th, only the embassy in Brazilia could report good news to Jerusalem. "Brazil would not get excited" over the Golan Heights Law, as relations with Israel were at an all-time high while relations with Syria were at an all-time low.[514]

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[512] Cable (Hebrew) 38(?) from Israeli Embassy in Ankara to Jerusalem, dated Dec. 15, 1981. Folder – חצ 6899\ 1 Foreign Minister Yitzhak Shamir, Golan Heights Law, ISA.

[513] A survey of international (and particularly Arab) reactions can be found in Cable 368 from Israeli FM to various embassies, dated Dec. 15, 1981. Folder 6899\ 1 – חצ Foreign Minister Yitzhak Shamir, Golan Heights Law, ISA

[514] Cable (Hebrew) 69(?) from Israeli Embassy in Ottawa to Jerusalem, dated Dec. 15, 1981. Folder – חצ 6899\ 1 Foreign Minister Yitzhak Shamir, Golan Heights Law, ISA.

On December 16, President Reagan chaired a meeting on the matter with his senior staff. The NSC noted in its briefing paper that Israeli law already had been applied to the Golan as the result of a 1969 decree by the military governor of the Golan. In which case, this law "amounts to *de facto* annexation."[515] The NSC proposed Reagan issue a statement "strongly deploring" the action and send a démarche to Begin. Reagan also had to decide how the US would vote in both the UNSC and UNGA on the issue (see below).[516] Yet, some of Reagan's advisors, especially Weinberger, seemed to think this was insufficient, "If there is no real cost to the Israelis, we'll never be able to stop any of their actions."[517] Reagan was particularly bothered that Israel had surprised him again as it had with Iraq, as he believed that the MoU would prevent that from re-occurring. As a result, Reagan decided to suspend (but not cancel) the MoU to send a strong signal of displeasure and prevent future surprises.[518]

On December 17, Haig met with Israeli Deputy Chief of Mission Ya'akov Nechushtan. Echoing the EC statement, Haig said the US considered Israel's actions "tantamount to annexation," and as such, in violation of both the spirit and the letter of UNSC Resolution 242, which was the cornerstone for any future pathway to peace.

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[515] U.S. National Security Council (NSC), "Golan Heights Background Paper" for Golan Heights: Briefing Material for Meeting in Sitrm at 4:30pm, December 16, 1981. CIA Archives, Doc No (ESDN): CIA-RDP84B00049R000601430018-4, Tab. A.

[516] U.S. National Security Council (NSC), "Golan Heights Background Paper" for Golan Heights: Briefing Material for Meeting in Sitrm at 4:30pm, December 16, 1981. CIA Archives, Doc No (ESDN): CIA-RDP84B00049R000601430018-4, Tab. A.

[517] Haig 1984, p. 328. It is unclear if this was said at the same NSC meeting or at a different meeting on the 16th.

[518] Haig 1984, p. 328.

The Golan law had made "business as usual" with Israel impossible for the US, and "had left them with little choice." Haig informed Nechushtan that the president had decided the US would have to vote against Israel in the UNSC later in the day, was "holding in abeyance" the coveted MoU, and was suspending talks about promoting $200 million annually in Department of Defense purchases in Israel. Haig said that when the MoU had been signed, the White House had believed it was clear and obvious that each side would consult with the other before undertaking any major action that would impact substantially on the interests of its ally. Israel's decision violated that understanding and so the White House saw no point in implementing the MoU. Nachushtan protested, saying that this was excessive, but to no avail.[519]

The next day, Fischer made this decision public in a press conference, citing the same reasons Haig had told Nechushtan in private.[520] Yet, in its background comments to reporters (and thus not for direct attribution), Fischer said that "we are not insisting on some kind of rescinding on the part of Israel." Although that was part of UNSC resolution, and so they would welcome it, the Reagan Administration did not want to make explicit what Israel "must or must not" do in order to repair relations. The spokesman also took pains to stress that US remains committed to Israel

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[519] The deal being considered was up to $200 million in defense acquisitions in Israel, or authorizing Israel to use Foreign Military Sales (FMS) funds to purchase Israeli produced goods and services or on the use of FMS by third countries to purchase Israeli items. Letter from Sec. Haig to Israeli FM Yitzhak Shamir, Dec. 17, 1981 and Cable 347, from Washington to Jerusalem, December 17, 1981; both in Folder "Begin - US" א/8193-7, ISA.

[520] Cable 363, from Washington to Jerusalem, December 18, 1981 in Folder "Begin - US" א/8193-7, ISA.

and that military and economic aid or military equipment would not be affected by the decision.[521]

As promised, on December 17, the United States voted in favor of a Syrian-sponsored UNSC resolution condemning Israel.[522] UNSC Resolution 497, unanimously adopted, reaffirmed "that the acquisition of territory by force is inadmissible, in accordance with the United Nations Charter, the principles of international law, and relevant Security Council resolutions." It held the Israeli law to be "null and void and without international legal effect" but at the same time, demanded that Israel "rescind forthwith its decision." If within two weeks Israel had not complied, the UNSC was to meet again "to consider taking appropriate measures in accordance with the [UN] Charter."[523] The UNGA added an extra section (called Part B) to its Resolution 36/226 (also passed December 17), which also passed 121 to 2 (with 20 abstentions).[524] This resolution was similar to the UNSC resolution, except that it also "Strongly deplores the persistence of the Israeli policy of annexation" and asked the UNSC to invoke Chapter VII in order to enforce its decisions. The American vote in the UNSC marked a rapid reversal of course, given that only a week before (on December 10), the US had vetoed 6 UNSC resolutions on Israel, mostly because they

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[521] Cable 363, from Washington to Jerusalem, December 18, 1981 in Folder "Begin - US" א/8193-7, ISA.

[522] The only change made from the initial Syrian draft was that Israel was given two weeks to comply instead of one (in the Syrian draft). The NSC pointed out that the draft was relatively mild, which was probably done to encourage the US to vote in favor. The original draft can be found in U.S. National Security Council (NSC), Golan Heights: Briefing Material for Meeting in Sitrm at 4:30pm, December 16, 1981. CIA Archives, Doc No (ESDN): CIA-RDP84B00049R000601430018-4, Tab. E. NSC discussion is in the background paper, Tab A.

[523] Text of the resolution can be found at the UN website: <http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/497(1981)>.

[524] The US was the only other "no" vote.

were considered one-sided and because they raised the possibility of sanctions. It did, however, agree with the text on Jerusalem, which the US held to be a unilateral move that had no legal weight.[525]

Israeli rebuttal

While Israel anticipated the American démarche and UNSC vote, they were caught unpleasantly off-guard by the suspension of the MoU.[526] The Memorandum had been hailed by the Israeli government as an "an enormous achievement… for the security and future of the People of Israel."[527] Now it had evaporated in thin air as a consequence of Begin's Golan initiative. In response, on December 20, Begin met with American ambassador Sam Lewis at his official residence in Jerusalem. Begin launched into an unforgettable 70-minute harangue, expressing his extreme displeasure at the American response. "I would like to dwell on this concept of punishing a sovereign country. Mr. Ambassador, what are we, a vassal state, a banana republic? And what is this government in general? Is it composed of boys [who are] 14-years old that if they don't behave they have to be knuckled on their fingers, scolded, punished?" Although the ambassador had come intending to explain this was

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[525] It did, however, agree with the text on Jerusalem, which the US held to be a unilateral move that had no legal weight. Picture 3498-9. ISA, Folder A

[526] This emerged during an interview with Foreign Minister Shamir on Israel Television, December 20, 1981.
"Interview with Foreign Minister Shamir on Israel Television, 20 December 1981" in Meron Medzini (ed.), *Israel's Foreign Relations - Selected Documents*, Vol. 7. Viewed on the Israeli Foreign Ministry website:
<http://mfa.gov.il/MFA/ForeignPolicy/MFADocuments/Yearbook5/Pages/92%20Interview%20with%2 0Foreign%20Minister%20Shamir%20on%20Israe.aspx>.

[527] As quoted by MP Amnon Rubenstein, Proceedings of the Knesset (Hebrew), December 23, 1981.

only a suspension, not a cancellation, Lewis was unable to deliver the message—

Begin simply would not let him get a word in edgewise:

> Well Mr. Ambassador… [we] understand from that announcement [on
> December 17]... that the American government renounces the
> Memorandum of Understanding. Through your announcement you
> tried to turn Israel into a hostage of the Memorandum of
> Understanding.... Mr. Ambassador, The Jewish people lived for 3,700
> years without a memorandum of understanding with the United States
> of America, and the Jewish people will live for another 3,700 years
> without that memorandum.[528]

To add insult to injury, cabinet secretary Aryeh Na'or read out a copy of

Begin's remarks to the press (in English), so that even before Lewis had made it back

to Tel Aviv to cable Washington, Lewis heard the contents of the meeting in his car on

the radio. As Lewis described the aftermath, "The White House was furious at this

broadside attack, not only because of its treatment of the U.S. Ambassador, but more

importantly for the tone of the attack on the United States. The temperature of the

U.S.-Israel relationships plummeted to sub-Arctic levels immediately."[529] The attack

was so scathing TV journalist David Brinkley asked the Israeli ambassador "Can you

see how, after [Begin's harangue], the relations between our two countries will ever be

warm and friendly again?"[530]

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[528] There are several different versions of what was said. This is because Begin did not read from his pages of notes, whereas the cabinet secretary Arye Na'or did read from the prepared remarks when releasing the statement to the press. The version quoted here is from the transcript of the meeting itself, and so represent what Begin actually told Lewis. "Transcript of Meeting between the Prime Minister of Israel, Mr. Menachem Begin, and U.S. Ambassador Samuel Lewis," Sunday, December 20, 1981, 9:40 a.m., Prime Minister's Residence Jerusalem in Folder "Begin - US" א/8193-7, ISA. To get a sense of the atmosphere of the meeting, see Jessup's interview of Lewis, pp. 188-89; and Avner, pp. 583-588.

[529] Jessup's interview of Lewis, p. 189.

[530] Transcript of This Week with David Brinkley, December 20, 1981, in Folder "Begin - US" א/8193-7, ISA.

Domestic Reaction, round 2

The open fracture between the Begin and Reagan governments opened the Begin Administration to a round of domestic criticism. Foreign Minister Shamir was grilled by Israeli television following the Begin-Lewis meeting and asked "As Foreign Minister, do you not feel that we have gone too far in this reaction?"[531] On the floor of the Knesset, the centrist Shinui party put forward a motion of no-confidence, where MP Rubenstein launched a scathing critique of the government's handling of ties with the United States. Pointing out that the Begin government had praised Reagan's electoral victory only a year before, Rubenstein asked rhetorically, "how has it happened that within such a short time [since Begin's visit to Washington four months before]… such a righteous man [i.e. Reagan] has turned into an enemy, 'a big friend' [of Israel] into an evil and wicked man?" Either Begin failed to understand reality that Reagan was not such a 'friend of Israel,' or Begin was single-handedly responsible for the unraveling of this crucial relationship. Rubenstein connected this directly to the previous Knesset debate on the Golan Law:

> …just one week ago, the Knesset approved the Prime Minister's morning decision to annex the Golan in three recklessness and imprudent readings. The government told us… here on this very podium that it had taken into account all possible reactions to this rash move. Within a few days: Oops, sorry, we were wrong - the government was shocked and surprised by the intensity of the

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[531] This emerged during an interview with Foreign Minister Shamir on Israel Television, December 20, 1981.
"Interview with Foreign Minister Shamir on Israel Television, 20 December 1981" in Meron Medzini (ed.), *Israel's Foreign Relations - Selected Documents*, Vol. 7. Viewed on the Israeli Foreign Ministry website:
<http://mfa.gov.il/MFA/ForeignPolicy/MFADocuments/Yearbook5/Pages/92%20Interview%20with%20Foreign%20Minister%20Shamir%20on%20Israe.aspx>.

American reaction, even though it should have been anticipated and predictable to any reasonable person, and even though there were those in the Knesset who warned against what was about to befall upon us. And it was said explicitly, in clear and sharp terms. And I ask, where is all the diplomatic know-how, where is the wisdom, where is all the information and expertise? All of it disappeared in breath of hot air and conceit.[532]

When the UNSC reconvened on January 5 without Israel having budged, Syria pressed for mandatory trade sanctions under Chapter VII, while Jordan sought a resolution calling for voluntary sanctions. While the United States again condemned the Israeli law, it refused to agree to any call for sanctions. One reason is that, as Haig told President Reagan during a briefing, Begin had "raised the white flag. They want to 'cool it.' They want to get into our good books. They have promised, essentially, that there will be no attacks on the Syrian missiles and no intervention in Lebanon unless there is major provocation…. We think we have played it right so far."[533]

It is far from clear that Begin was actually ready to raise any white flags, and relations remained tense for some time. During a trip to Jerusalem in mid-January, Haig met with Defense Minister Sharon, who launched into a loud tirade about the suspension of the MoU. He culminated with the demand, "We are your ally and friend and should be treated as such!" pounding on the table, making the dishes jump for effect. "If you act like an ally, General," Haig replied, "you'll be treated like one."[534]

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[532] Proceedings of the Knesset (Hebrew), December 23, 1981.
[533] Geoff Kemp, Memorandum for Dick Pipes, "Golan Heights Input for Minutes of NSC Meeting Held on January 5, 1982" January 8, 1982. Geoff Kemp Files, Ronald Reagan Library.
[534] Haig, p. 329.

The subsequent invasion of Lebanon would further sour relations, and the MoU would only be restored in late 1983.[535] However, even until today, no country has accepted the move as valid, and the territory is still considered by the rest of the world as occupied Syrian territory.

EXPLAINING THE GOLAN LAW

So what does the preceding case say about on the hypotheses discussed at the outset of the chapter? As before, the discussion begins with the territorial integrity norm and then moves on to the various alternative hypotheses.

The Territorial Integrity Norm

Throughout this case, there is a great deal of explicit evidence pointing to the impact of the territorial integrity norm in international affairs. The most obvious is the international reaction to the Golan Law, which generally contained two main themes: it contradicted UNSC Resolution 242 and violated international law regarding belligerent occupation. The criticism regarding 242 itself was two-fold, with both aspects support the overriding contention of this dissertation. The first criticism of the Golan Law was that it stood in contradiction to the infamous phrase from the resolution's preamble regarding "the inadmissibility of the acquisition of territory by war" and the operative section's call for the "Withdrawal of Israel armed forces from territories occupied in the recent conflict." In other words, the Golan Law was a

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[535] Cobban 1989, p. 5. In June 1983, the U.S. began signaling it was ready to defrost the MoU. See Hedrick Smith, "Weinberger Says Pact with Israel can be Restored," *New York Times*, June 15, 1983.

violation of the territorial integrity norm. The second aspect of this condemnation was that it would preclude the possibility of reaching "a just and lasting peace in which every State in the area can live in security." Why would this preclude peace? Because it was understood that the framework for a peace treaty would be the return of the occupied territories in exchange for recognition of Israel's right to exist—which as chapter 4 demonstrated, is the same principle underlying most peace treaties signed since World War II.

The fact that the Reagan Administration felt that it had no choice but to punish Israel is also evidence of the norm's influence. While the Reagan Administration said on a number of occasions (during internal discussions and public statements) that Reagan was motivated to take punitive action and not suffice with diplomatic condemnation because it could not have its ally surprising it with unilateral actions, the point was that the unilateral action was one which was unacceptable. This is made clear by considering a hypothetical scenario whereby Israel were to suddenly announce it was unilaterally withdrawing from the Golan Heights and returning it to Syria. In which case, would Reagan officials have been angry? Most likely they would have been bewildered, thinking it an act of madness. Yet there is no reason to believe they would have voted against Israel at the UN or suspended the MoU. Again, what was problematic was that Israel brazenly violated a central norm the United States was expected to uphold.

The manner in which the Begin handled the entire maneuver also points to the fact that he knew there was a norm which he sought to violate. On the one hand, the

government anticipated that it would pay costs for violating the norm, but Begin told his cabinet the price would be worth it. On the other hand, Begin took steps to reduce these costs by moderating his bill and using intentionally ambiguous wording (instead of adopting Geula Cohen's clearer formulation), and denying that it was an act of annexation during the Knesset debate.

The way Israel fought its battle for public diplomacy also demonstrates the degree to which Israel sought to maneuver within a normative framework. For example, in its public diplomacy, Israel often argued that it is Syria who does not abide by the territorial integrity norm and UNSC resolutions. Israel pointed to the Syrian rejection of the UN Partition Plan in 1947 and subsequent invasion aimed at preventing Israel from coming into existence. "This invasion was done in open and gross violation of the UN Charter, whose section 2(4) forbids the use of force—and even the threat of the use of force—against the territorial integrity and political independence of another state." In the 1949 armistice agreement, the Israeli government pointed out, it was Syria which insisted on explicitly stating that the cease-fire lines "are not to be interpreted as having any bearing on the permanent territorial arrangement."[536] Interestingly, this implies that Israel has not violated Syrian territorial integrity because there were no recognized borders—and it was Syria which was to blame!

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[536] Pamphlet from Hasbara Center on the Golan Law, pp. 9-10. ISA, Folder 9048/24 – ג The same document also noted that Syria under the Ba'th party, calls for "Greater Syria," including Jordan, Lebanon, and Palestine, and has tried to implement this by invading Lebanon in 1976 and twice trying to "take over" [להשתלט] Jordan in 1970 and 1980.

As was true of the Suez case, proponents of the law did not base Israel's claims to sovereignty over the Golan on its conquest of the territory. Rather, like Ben-Gurion, Begin, Geula Cohen, and others laid claim to the land because they thought the Jews had a solid historical claim to the territory, whereas the previous Syrian possession was an historical fluke. These claims were most fully developed in a pamphlet produced by the government's public diplomacy department, which claimed that the Golan was always conceived as part of the historic Land of Israel. It describes how the area was settled by the Israelite tribe of Menashe and was part of the Maccabee rebellion against the Greek-Assyrians. The Golan, according to the pamphlet, was "settled in the main" by Hordus (ruler of Roman Palestine) and its inhabitants, who were also involved in the Jewish revolt against the Romans preceding the destruction of the Second Temple in Jerusalem. Finally, the pamphlet noted that when the first modern Zionist settlers came to Palestine, the Baron Rothschild also purchased land on the Golan, which was populated by Jews until they were driven out in 1898.[537]

In terms of understanding the casual mechanisms for the norm, as with Suez, the norm's impact was not felt because Israeli decisionmakers had internalized it. Only Toubi of the Communist party expressed that sort of outrage for the purpose of the Golan Law. Even then, one of Toubi's main contentions is Israel should obey the norm out of self-interest. By abridging the norm, Israel "relinquishes the protection of the laws and conventions in the international system which Israel needs perhaps more than any other country." The other opposition speakers displayed more outrage over

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[537] Pamphlet from Hasbara Center on the Golan Law, p. 6. ISA, Folder 9048/24 – ג

the trampling over the democratic process than about the goal of the bill. The core reason for their opposition was because they feared the international consequences. Moreover, as Amnon Rubenstein admitted, the opposition understood that a vast majority of the public also would not be troubled with the idea that the territorial integrity norm was being violated. Thus, it appears the main mechanism for the norm in this case was third party enforcement.

As for other countries, Syria (like Egypt in 1956) used the norm infringement as a weapon in their war, not because they had internalized the norm or had accepted 242. Western countries, in contrast, do appear to have acted out of a greater sense of moral obligation. This said, during an NSC meeting on January 5, 1982, Reagan told his advisors that says UK Prime Minister Margaret Thatcher is unlikely to join in an American veto on the follow-on UNSC resolution calling for sanctions against Israel because "their trade with the Arabs is very important and that this has her worried."[538]

Still, it would be mistaken to see these motivations as the critical factor. The key advantage of this study is that because the event was unexpected, immediate changes in policy can help us see what impact the Golan Law itself had. Had trade with Arab states been the issue, then Britain could have found an excuse to push for economic sanctions against Israel before the Golan Law, as Arab states had sought in the UN the week preceding the Golan Law. Likewise, if relations with the Arab states were the critical concern for the Reagan Administration, then they could have voted

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[538] Geoff Kemp, Memorandum for Dick Pipes, "Golan Heights Input for Minutes of NSC Meeting Held on January 5, 1982" January 8, 1982. Geoff Kemp Files, Ronald Reagan Library.

against Israel at the UN the week before the Golan Law or not concluded the MoU in the first place only two weeks beforehand.

Alternative Hypotheses

Overall, the alternative hypotheses receive very little support in this case.

Domestic politics

As both the Israeli prime minister and opposition figures agreed, the Israeli public was largely in favor of the Golan Law, and probably would have been in favor of Geula Cohen's more explicit version. Likewise, it seems likely that Begin also realized this legislation would be effective in reclaiming some of his base, which had become estranged over the Camp David process and the upcoming withdrawal from Sinai. As such, it cannot explain why Begin did not annex the Golan *de jure*.

In the United States as well, the Reagan Administration had no interest in getting into a big, public slugfest with Israel, especially after relations had improved and the MoU had been concluded. The administration consistently sought ways to reduce the conflict with Israel, such as reiterating the support for Israel's security, pledging not to stop arms shipments, the off-the-record suggestion that Israel did not even need to rescind the law, and the fact that the administration chose to suspend the MoU and not renounce it. As Haig told Nechushtan, the Administration felt Israel had left it no choice but to take the measures it did. Although we do not have clear evidence regarding why the US was so concerned not to alienate Israel, domestic

politics (namely pressure from pro-Israel groups) was likely a consideration. Still, the point is that if domestic considerations were paramount, then why denounce or punish Israel at all?

The Norm against Interstate Aggression

One way in which the Golan case compliments the study of Suez in 1956 is that in this case Begin's policy in the direction of annexation was completely disconnected from the termination of war. So that here again, the quasi-experiment aspect of this case allows us to infer that any change in the response to Israeli policy in the immediate aftermath of December 14 could not be said to be the consequence of the norm against aggression but only because it was a transgression against the norm of territorial integrity.

This said, there was one interesting manifestation of this norm in the archival documents. On December 23, 1981, Jacob (Jack) Stein, Special Advisor to the White House for Jewish Affairs, wrote a memo to the President's Public Liaison, Elizabeth Dole, arguing, "I believe that out of a sense of frustration and isolation, Israel *moved in a non-violent fashion* to acquire a 'bargaining-chip'…"[539] In essence, Stein is pleading the case that Israel's actions were not in violation of the norm in question.

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[539] My emphasis. Jacob (Jack) Stein, Special Advisor to the White House for Jewish Affairs, memorandum to Elizabeth Dole on "Extension of Israeli Law on the Golan Heights," December 23, 1981. Jack Stein Files, Box OA 9242, Ronald Reagan Library.

The Norm of Self-Determination and Conquest No Longer Pays

Neither of these hypotheses finds support in this case, as neither consideration helps shed light on either Israeli or American behavior. In terms of conquest not being beneficial, Israelis across the political spectrum were united in the opinion that the opposite was true. The Golan Heights have always been considered to have tremendous strategic importance militarily, including Mt. Hermon, which allows Israel a clear view deep into Syrian territory. The Golan also includes several rivers which feed into Israel's primary water reservoir, the Sea of Galillee, and is ideal for growing numerous foods that are less well-suited to Israel's more arid climate. For these reasons, almost all of Begin's detractors (spare the communists) did not take issue with the purpose of the bill, *per se*. Opposition speakers took care to explain that they believed the Golan should always remain part and parcel of Israel as part of any future peace treaty.

The only time when either consideration possibly arose was the evening before Begin initiated the Golan Heights Law. That night, Begin called his chief of staff, Yechiel Kadishai, and asked him to "find out the current population of the Golan Heights." The reply was "some ten to twelve thousand Druze… and a few thousand Israeli settlers, no more."[540]

We do not know why Begin asked this. He never explained it to Kadishai or anyone else. Perhaps if the answer had instead been 300,000 Sunni Muslim Palestinian refugees, this might have affected Begin's considerations as it had Ben-Gurion's in

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[540] Avner 2010, p. 579.

1956. However, that will never be more than speculation. What we do know is that of all the international condemnations of the Golan Law, none suggested that this violated the Druze residents' right to self-determination, and none of the domestic critics expressed concern that explicit *de jure* annexation would create demographic difficulties.

Realpolitik

As opposed to 1956, the concern about the Soviets intervening or gaining ground in the region was a non-issue. At no point did any American or Israeli express concern in this regard. While one could conceivably claim that the US was worried about Arab reaction to the MoU being signed in the first place, if this had been a consideration, then we would have expected to see some hint of this in the archives or seen Reagan renounce the MoU outright, not just put it in "abeyance."

CONCLUSION

Both cases provide strong evidence that the territorial integrity norm has a strong effect on international relations. Although Israeli leaders in both instances saw enormous potential gain by annexing the Sinai and the Golan, they were deterred from doing so (at least *de jure* in the case of the Golan). This said, in neither of these cases was Israel restrained because its leaders had internalized the norm (although a minority of politicians, mostly on the left, had to some degree). Instead, they were

deterred because of the threat of international intervention—most importantly, Israel was concerned about the reaction of the United States.

Both cases are also interesting because they involve questions which are not clear-cut for the norm. In 1956, the international community did not know how to address the possibility of Israeli annexation of Gaza, as Egypt itself had illegally come to occupy the territory. In the case of the Golan Heights, Israel did not attempt to annex the territory *de jure*, clearly in an attempt to obfuscate as to whether it had or had not abridged the norm.

Finally, there are several critical differences between the two cases that are worth noting. Most importantly, while both Reagan and Eisenhower sought to enforce the territorial integrity norm, there were several reasons which led to a far harsher reaction from the Eisenhower Administration versus the far more lenient response of the Reagan Administration. First, there was the basic proclivity of each: Eisenhower was never a strong supporter of Israel, while Reagan had campaigned strongly on the issue. Indicative of this difference was that Eisenhower never agreed to sell Israel arms, whereas Reagan went out of his way to do so. Second, Eisenhower still believed that the UN represented "the soundest hope for peace in the world,"[541] whereas by the time Reagan entered office, few still maintained such hope for the regularly deadlocked organization. A third difference was the Cold War, which was still in its initial stages in 1956, with each side jockeying for allies. By 1981, the world had

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[541] President Dwight Eisenhower, Address to the Nation, October 31, 1956. <http://www.presidency.ucsb.edu/ws/?pid=10685>.

become more clearly divided, and so there was little concern of allies playing one superpower off the other (as Nasser had).

Chapter 7:

Implications for International Relations Theory

This chapter considers what the dissertation's findings mean for broader issues in international relations. It first discusses the implications for the literatures on borders and war, followed by the literature regarding why states obey norms. It then takes on one of the most fundamental issues in international relations: the assumption of anarchy. Finally, the chapter suggests that the territorial integrity may have had an impact on other issues, including rivalries between states, the size of states, and alliances.

BORDERS, FORMAL CONCESSIONS, AND PEACE

The most important finding of this dissertation is essentially that Woodrow Wilson was right after all: banning the acquisition of territory by force of arms dramatically reduced the occurrence of interstate war—that is, only for those countries with recognized boundaries. At the same time, Wilson would probably be surprised to learn that, paradoxically, it was the advent of the territorial integrity norm which has been key to preventing many modern conflicts from ever reaching formal resolution.

These findings have important impacts on wider debates in the international relations literature. First, there is a literature on the role of settled borders in

preventing the onset or reoccurrence of conflict.[542] The present dissertation suggests that a caveat is in order for the findings of those authors. While true that *de jure* borders substantially reduce the risk of war, the findings here show that this effect is largely contingent on time. Analysis that simply looks at the effects of borders is likely being overwhelmingly determined by the number of post-World War II observations, so that it misses important variation in previous periods.

WHY STATES COMPLY WITH NORMS

This study also weighs in on the larger literature on norms in international relations more generally, specifically to the critical question on why states comply with norms. As opposed to the Keck and Sikkink model of norms (1998), here domestic actors did little to implore states to abide by the territorial integrity norm and there was no "boomerang effect" involved. This was true of dictatorships (e.g. Italy's conquest of Ethiopia in 1935, Iraq's conquest of Kuwait in 1990 or Russia's conquest of Crimea in 2014) as it was for democracies (e.g. Israel's conquest of the Sinai in 1956 and move to quasi-annex the Golan in 1981). In these cases, annexation generally was highly popular and received wide domestic support. Likewise, domestic courts generally have not ruled that such moves are illegal. Instead, what kept states in line was international enforcement of the norm. It was the willingness of states—most critically, the United States—to put teeth to the enforcement of that norm via sanctions or military force which has been essential to the norm's adherence.

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[542] Some of the more recent include Gibler 2012, Owsiak 2012, and Schultz 2013.

So why did domestic actors not play a bigger role in the enforcement of this norm? While beyond the scope of this dissertation, part of the answer may lie in the question of who benefits from norm violation and norm enforcement. In Keck and Sikkink's work, the norms in question (e.g. human rights, environmentalism, and violence against women) are generally to the benefit of the domestic constituents themselves, and it is the regime or a segment of the society which pays the opportunity cost for abiding by the norm. Other states are often not materially affected (spare negative externalities of pollution), but rather apply pressure because their citizens have internalized the norm and believe the norm's promotion to be a moral imperative. Norms like the territorial integrity norm are different, because here all citizens actually pay the opportunity cost of abiding by the norm. All Italian, Russian, Iraqi or Israeli citizens would have benefited from annexation. It would have provided their state with more resources, increased security, and increased the ability of citizens to gain from that territory (by increasing trade, allowing for tourism, etc., all of which are usually easier when a citizen need not cross an international border). Smaller or weaker states, on the other hand, would pay the cost of having the norm violated or crumble entirely, and thus had incentives to uphold it.

A second reason is perfect information. In Keck and Sikkink's model, other states generally cannot see norm infringement, but rely on domestic actors to provide that information. With conquest and annexation, the acts are impossible to hide. Indeed, for annexation to be meaningful, others minimally must know about it, even if they do not recognize it.

This study also allows for an interesting insight on norm enforcement by comparing the post-1919 territorial integrity norm to the two somewhat similar norms which took root in Africa and Latin America in the 19th century (see chapter 2). Specifically, why is it that those continent-wide norms existed without any effective third party enforcement; and if such a system was possible, why did Wilson and others believe the global norm required third party enforcement in order to be able to function? It seems that the reason for this difference is embedded in the different motivations behind the adoption of these norms in the first place. In the case of the Latin American and African examples, opportunity costs for obeying the norm for most countries were generally small. Most governments—colonial and post-colonial alike—had difficulty imposing effective governance on the territory they did control. They had small, poorly equipped armed forces at their disposal, and so conquest was not easily accomplished. With so few resources at their disposal, these governments accented to the norm in order to avoid squandering what little they did have on potentially endless wars over nominal control over borders. Given how much they stood to lose by opening a Pandora's box of territorial wars, the fear that the norm would collapse was usually a sufficient enforcement mechanism. Essentially, this norm functioned as a coordination mechanism.

Although those advocating for a global norm also did so in an attempt to limit the costs of war, the norm emerged for nearly the opposite reason: European states were becoming ever more capable of extracting resources and directing these resources to their armed forces. The growing strength of the militaries was precisely

because regimes could impose more effective governance over the vast majority of the territory they nominally controlled. While relatively weak states could be expected to obey the norm in order to make sure it did not erode, this was not at all true for relatively strong states. Because they were in a position to defeat others and annex their territory, these strong states faced substantial opportunity costs for abiding by the territorial integrity norm. Should the strongest states pay no cost for violating the norm, it would have greatly undermined the viability of the norm, for as Bicchieri argues norms can only function if other actors anticipate that other actors will follow it (see discussion in chapter 3). Consequently, Wilson believed, the only way the norm could be maintained in these cases is if there was third party enforcement. This was especially necessary because the territorial norm was replacing a long-held alternative, the "right of conquest," which meant that this new norm could not be expected to have been deeply internalized.

THE END OF ANARCHY

For most of history, as Kenneth Waltz (1979) so masterfully theorized, a Hobbesian "state of nature" alone dictated relations among states. The international system was, at its core, defined by anarchy. Each state was "formally… the equal of all the others. None is entitled to command; none is required to obey."[543] While in hierarchical settings "the force of a government is exercised in the name of right and

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[543] Waltz, p. 88.

justice,"[544] lacking such institutions which could authoritatively legislate rules and laws, it was impossible for a state to act illegitimately, immorally, or illegally—even when it employed violence against others or took their territory. As Waltz wrote, "Wars among nations cannot settle questions of authority and right; they can only determine the allocation of gains and losses among contenders and settle for a time the question of who is the stronger."[545]

Indeed, historically, states could initiate wars without provocation, and under the "right of conquest," would claim title to the conquered territory. As Grotius points out, conquerors were then free to kill, rape, or enslave all the inhabitants and pillage any and all of the property of the newly conquered territory, either during the fighting or afterwards.[546] In kinder instances, sovereigns gave their new subjects the choice to leave for what was left of their home country.

In this anarchical system, there was no institution capable of enforcing bilateral agreements, which meant that peace treaties were barely worth the paper on which they were signed. As Britain's Lord Bathurst stated in 1815, "Great Britain knows of no exception to the rule that all treaties are put an end to by a subsequent war between the parties." Such sentiments were by no means limited to England. As Cecil Hurst has pointed out, in 1845, U.S. Secretary of State Buchanan held that "the general rule of international law is that war terminates all subsisting treaties between the

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[544] Waltz, p. 112.
[545] Waltz, p. 112.
[546] Korman 1996, pp. 29-30.

belligerent Powers…" In 1856, the French plenipotentiary at the Congress of Paris maintained a similar view.[547]

Under this system of anarchy, alliances also follow a similar amoral logic. As Hans Morgenthau (1967) argued, "Whether or not a nation shall pursue a policy of alliances is… a matter not of principle but of expediency."[548] Even if one state should annex another's territory or eliminate it from the map entirely, other states should not be expected to be come to the defeated state's rescue out of moral compunction. Such a system should lead to a system defined by self-help[549] made up of functionally "like units" where all states must expand vast resources to build up their armed forces because they compete with each other in this area, and failure to compete means eventual elimination from the system.[550]

So what if the opposite were true? What if states were no longer able to invade neighbors at will? What if peace accords were no longer treated as mere scraps of paper? Moreover, what if third party enforcement via a supranational institution turned out to be the lynchpin for these changes in behavior? If, as Waltz states, "Self-help is necessarily the principle of action in an anarchic order," then what would it mean if the international order was more accurately described as one of collective security?[551] What if dozens of states would band together to defend the territorial integrity of

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[547]Cecil J. B. Hurst, "The Effect of War on Treaties," *British Year Book of International Law*, Vol. 45 (1921-1922). The Bathurst quotation is also found in Hurst.

[548]Morgenthau, *Politics Among Nations*, p. 175-78. Morgenthau also mentions the Triple Emperors' League of 1873 (which mentioned their monarchical bond against republics) and the Cold War anti-Communist rhetoric in US-led treaties as examples of alliances where ideological components are mentioned.

[549] Waltz, p. 107.

[550] Waltz, p. 76.

[551] Waltz, p. 111.

countries? In other words, would changes in fundamental issues of war and peace indicate that the core assumption of anarchy—held by realists, neo-liberals, and many constructivists alike—is no longer valid?[552]

If so, then the findings of this dissertation arguably add to the surprisingly small literature, which in the words of Friedrich Kratochwil, contests the "unquestioned dichotomy between a 'domestic order' and… international 'anarchy,'" essentially arguing that anarchy is an inaccurate representation of the present international system.[553] The dissertation finds that questions of legitimacy and legality have taken on far more importance over the past two centuries, such that wars no longer simply answer "the question of who is stronger" or simply allocate "gains and losses among contenders," but much to Waltz's chagrin, are often are highly influenced by issues of "authority and right." As Robert Jackson has written, "We are witnessing the emergence of a community of states with a normative, legal, and organizational superstructure that is far more elaborate than anything which existed previously."[554]

That the right of conquest held for most of world history had everything to do with the state of anarchy which undergird the international system. As early scholars of international law realized, given the strong incentive actors have to conquer territory and without any international institution capable of enforcing agreements or

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[552] Two examples of constructivists basing their work explicitly on anarchy are Wendt 1992 and Hopf 1998.

[553] Kratochwil 1989, p. 2. See similarly Onuf 1990; Milner 1991; and Cronin and Hurd 2008. Several other important works on the topic include Grieco 1988, Wendt 1992, Buzan 1993, Schmidt 1998, Lake 1998 and 2009, Buzan, Jones, and Little 1993, Buzan and Little 1996.

[554] Jackson 1990, p. 81.

rules, it would have been fool's errand to try to legislate war away. Again, Woodrow Wilson grasped this, and decided from the very beginning that such an effort could only stand a chance if it was done in a hierarchical framework, whereby some actors (the League's Council or later the UNSC) would have the authority to decide whether a law had been breached and what steps might be taken to address that breach. The UN and League also formed bodies to arbitrate disputes, and in fact there is a strand of literature which has demonstrated that the International Court of Justice has increasingly (especially since the end of the Cold War) become perceived as a legitimate forum for permanently resolving conflicts among states.[555]

This point is critical for the discussion of anarchy for two reasons. First, it contradicts the often made assumption that the international system lacks "any authority above the state."[556] As chapter 6 illustrates, the UN indeed has such authority, and leading states can indeed compel UN members to obey the charter and UN decisions. Secondly, several theorists have tried to rescue the assumption of anarchy by arguing that anarchy does not necessarily have to equal "Hobbesian," but could also simply describe a system characterized by formal equality among its members.[557] Yet, because the Security Council (UNSC) does in fact decide on coercive measures to enforce its decisions when there are "grave threats to international peace," its five permanent members a formal, legal status which is not

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[555] Huth 1995, Simmons 1999, Allee and Huth 2006.
[556] Hopf 1998, p. 171. Stephen Krasner (1999, 3) defines anarchy as "the absence of any institutional arrangement for authoritatively resolving conflicts," which fairs even more poorly, as the League and UN were both specifically granted authority to intervene or arbitrate in international conflicts.
[557] Most importantly, see Bull 1977.

equivalent to that of all the other states. Or to stand Waltz on his head, some states are indeed entitled to command, the rest are, in fact, required to obey.

As a result, since 1945, there is now (at least) one body which has forged a degree of formal *systemic* hierarchy in the state system.[558] In Lockean fashion, by joining the UN and signing its Charter, member states officially "confer on the Security Council primary responsibility for the maintenance of international peace and security," agreeing that "the Security Council acts on their behalf."[559] Member states have even delegated the UNSC the power to "determine the existence of any threat to the peace, breach of the peace, or act of aggression" and decide how best to "maintain or restore international peace and security" (Article 39). Moreover, they have formally committed themselves to live by UNSC resolutions (Article 25). Thus, whereas in the realm of domestic politics there is an *implied* social contract which allows some citizens the right to make and enforce laws on behalf of the rest, in the international system that social contract is concrete and explicit.

This dissertation suggests that these Lockean constitutional documents (such as the UN Charter) do, in fact, affect behavior and impact the central beliefs of states.

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[558] It is important to emphasize the systemic nature of hierarchy, which stands in sharp contrast to the existence of hierarchy in dyadic relations (Lake 2007 and 2009). Dyadic patronage, as Lake describes it, is a dynamic far more akin to patronage than one based on law. Here subordinates receive military or economic security, and in return, give up elements of sovereignty (Buena de Mesquita 1991 has a similar idea). Such hierarchical relationships can indeed exist in an anarchic system; in fact, given the self-help nature of anarchical systems, we are more, not less, likely to such relationships in anarchy (just as gangs and mafias are far more successful in neighborhoods or regions that are beyond the reach of a state's law enforcement institutions. For this reason, the fact that dyadic hierarchy in the international system is at far lower levels than in the previous century only lends support to my claim that the international system since World War II is increasingly characterized by a systemic legal hierarchy, where states have both rights and obligations.

[559] UN Charter, Article 24.

Namely, states now largely hold that bald aggression against other states or annexing their territory is wrong and illegitimate, that other states have a duty to intervene to reverse such outcomes, and that there is a significant likelihood they will face such intervention if they violate the territorial integrity of their neighbors. As a result, it means that for the first time there is an institution which will uphold even bilateral agreements, at least where they regard demarcating international boundaries. This stands in contrast to previous work by many scholars working on war termination, such as Chris Gelpi, who also base their work on the assumption that "the anarchic nature of international politics" means that "notions of 'right' and 'wrong' are not useful categories for describing state behavior."[560]

FUTURE DIRECTIONS: ENDURING RIVALRIES, SIZE OF STATES, AND ALLIANCES

The impact of the territorial integrity norm may extend to other phenomena in international relations. The most relevant to this dissertation is the "Enduring Rivalries" literature, which has shown that while war is rare, when it does occur, it tends to be fought repeatedly between the same countries.[561] The findings in chapters 4 and 5 suggest that—at least since World War I—rivalries are more likely to develop

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[560] Gelpi 2003, p. 39. On the other hand, Gelpi claims that bilateral agreements somehow are different: "by consenting to a legitimate [bilateral] dispute settlement, the contracting parties create a normative dimension to their relations which give them new categories for their behavior." Why ascension to a major multinational treaty is different is not clear. Fortna 2004 is another example of anarchy serving as a core working assumption.

[561] Goertz and Diehl 1993 and 1995; see also Gartzke and Simon 1999, Huth 1996 and 1999, Hassner 2007, Lemke and Reed 2001, and Sartori 2003.

between countries who have contested borders, whereas one reason some conflicts might not repeat themselves is because the belligerents had a recognized border before hostilities began. Before World War I, on the other hand, this factor likely did not impact the dynamic. Thus, one area which should be tested is whether the territorial integrity norm has affected the dynamic of enduring rivalries.

A second puzzle which could be further explored is the changing size of states. As David A. Lake and Angela O'Mahony (2006) point out, while the average size of states grew over the 19th century, it shrunk over the course of the twentieth. The findings of this dissertation suggest that in the twentieth century, small ethnic groups would have good cause to believe that if they could win independence, they had a better chance staying independent as a small state than was historically the case.

Finally, while this dissertation has explored how the territorial integrity norm has dramatically altered both war initiation and termination, one additional avenue of future research is to explore how the territorial integrity norm has impacted the way wars are actually fought. Most prominently, it appears that the norm has likely transformed alliance behavior as well. If territorial acquisition is no longer a permissible war aim, then offensive alliances should lose their *raison d'être*, as such alliances aimed to conquer other countries in order to split their territory. This is not to say there were no exceptions—in addition to the 1956 case examined in chapter 6, the Arab coalitions against Israel in 1948, 1967, and 1973 are also prime examples. Rather, these cases should be much rarer than before World War II, and as I argue

regarding war initiation, should occur when potential belligerents do not have mutually recognized borders.

If offensive alliances are rarer, this should manifest itself in several concrete ways. For example, as the territorial integrity norm has become more robust, secret alliances should be far less common. Here again, the logic being that such alliances were historically aimed at coming to terms *ex ante* regarding how territorial spoils would be split before an attack actually commenced. Defensive alliances, on the other hand, are aimed at deterring an attack, and thus keeping them secret would be self-defeating. Similarly, alliances geared at enforcing collective security also should be made public in order to increase the chance the target country will concede before the coalition actually employs force.

The most important and tangible manifestation of this transformation of alliance behavior should be seen in the composition of alliances. Specifically, the advent of the territorial integrity norm has changed the balance of forces both between sides in a war and *within* alliances as well. In terms of balance of forces between belligerent sides, when the territorial integrity norm is robust, we will see more multi-country alliances—like those in Korea (1950), Kuwait (1990), Somalia (1993), Haiti (1994), Bosnia (1995), Kosovo (1999), Afghanistan (2001), and Iraq (2003)—so that the balance of forces should be far more lopsided than had been the case before the territorial integrity norm. In these cases, American-led coalitions had between 20-40 members—even though their opponent had few to no allies of their own. This behavior flies in the face of both historical experience and realist logic, which

typically predicts behavior totally at odds with what has been witnessed. Most emblematic of this logic is William Riker's (1962) theory of "Minimum Winning Coalitions," which posits that alliances will be just large enough to win a conflict—and no larger—in order to maximize each ally's share in the victory spoils. Yet, U.S. policy, particularly since the Cold War's end, has been precisely the opposite, creating alliances that are as large as possible and have no relation to the amount of military force required to win the war.

At the same time, if we look at the member contribution of these coalitions, we see another major shift in alliance behavior: not only have the balance of forces between sides in a war become more lopsided over time, but so, too, have the balance of forces within coalitions. In a world where victors in war can lay claim to conquered territories, each side should make large contributions to the alliance in order to bolster their claims on conquered territory in the post-war negotiations. Most effectively, armies will seek to increase the amount of land its forces occupy at war's end, as *de facto* possession will enhance their claim to the territory. Once the territorial integrity norm is in effect and states should anticipate that there will be no spoils of war, then coalitions of collective security will be characterized by a "collective action problem."[562] Namely, each coalition partner should try to provide as few resources as possible. This collective action problem is overcome by the central enforcer (e.g. U.S., Australia) providing the bulk of the forces, which on their own are sufficient to emerge victorious. Consequently, the balance of forces within alliances under the

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[562] Olson 1965.

territorial integrity norm should be far more lop-sided than alliances where the "right of conquest" is the norm.

This phenomenon finds initial evidence by looking at some of the coalitions mentioned previously. In Korea, America provided nearly 90 percent (over 300,000) of the UN fighting force, while most of the 16 coalition partners only contributed roughly a battalion (800-1400 troops), and Luxemburg sent a mere 44 soldiers. In Kuwait, as mentioned above, the U.S. provided 500,000 troops, versus 160,000 troops from the other 35 countries. In Haiti (1994), the multinational coalition of 28 countries consisted of 19,000 American soldiers and 2,000 soldiers and police officers from the other 27 countries. Likewise, the Australia-led INFERET incorporated 5 officers from Norway, 30 soldiers from Ireland, or 40 military police officers from Brazil—despite the enormous logistic burdens such additions created.

CONCLUSION

This dissertation set out to understand why belligerents are now less likely to make formal concessions after they have fought wars. My conclusion—that an effective ban on the acquisition of territory by force of arms has changed the incentives of states when they negotiate and made their agreements more credible— suggests a number of important changes in the international system and has many potential implications for the wider international relations literature. It means that the impact of settled borders on interstate disputes is contingent on time. It also suggests that as settled borders became a bigger impediment to initiating war, that the norm

changed the dynamics of interstate rivalries and increased the incentives of small nationalist groups to seek independence. Most fundamentally of all, it suggests that anarchy may no longer be the defining characteristic of international relations.

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