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### **Borders and the End of the Universal Temptation**

Among their concerns, the organizers of this workshop inquire how and under what conditions borders create barriers for people, ideas, and goods; how they bar entry and participation and how they delimit actors to specified roles. I start with one point of entry to the exploration of these capacious questions: Borders were meant to be barriers from their inception.

The emergence of borders, that is, the territorial delimitation of political authority, dramatically challenged traditional, near ubiquitous, universalist claims to rule. On critical dimensions these logics of rule differed in terms of how sovereignty was conceptualized; in the institutionalization of that particular logic of rule; and in the normative claims to exercise authority. Borders were part and parcel of the development of the modern territorially sovereign state and are a key condition in order to be recognized as a state today. For shorthand purposes we denote this, now global, system, the Westphalian state system.

This paper describes chronologically how these confronting logics of organization interacted over the course of the early modern era, roughly from the 17<sup>th</sup> century forward, and how they continue to influence politics and social configurations to this day.

Universalist claims to rule held sway for most of recorded history and throughout the Eurasian space. To claim sovereignty meant to claim legitimate rule over all others. *De facto* boundaries limited such claims in practice, but these were porous, poorly defined parameters of where jurisdictional authority and military power ended. While we will be familiar with the Chinese “Mandate of Heaven” and the claim to gather all under heaven “*Tianxia*,” pre-modern rulers elsewhere were no different. Rome, as Virgil remarked, had been given an empire without end. *Limes*, fluid frontier defenses, not fixed borders marked the extent of rule. The concept of a united Christian community under a renewed Roman Empire proved suggestive to many rulers well past the fall of Rome. Likewise, Ottoman, Safavid, and Mughal rulers claimed to be universal conquerors, heirs to Alexander, Genghis, and Timur—the three recognized world conquerors. In Southeast Asia, galactic empires were the norm with the rulers of their capitals claiming to be conduits to the sacral realm. The Chinggisid claim of universal rule held throughout the Middle East and Asia for most of the last millennium (Zarakol 2022). The universalist temptation, the notion that hierarchy and integration of the relevant social and economic space corresponds with peace and order, maintained its hold on imagination for centuries, and arguably even does so today.

Institutionally, given the material limits of earlier empires and given the vast territorial extent of these polities, their ability to affect local political and social relations was limited. As Gellner suggests, they ran wide but not deep. They were vertically separated, in terms of religion, language, and ethnicity, with trans-local interaction reserved for the ruling elite. Normatively, other rulers were considered as rivals and inferiors-- a world conqueror could not logically acknowledge an equal. Moreover, these universalist normative claims were almost always bolstered by claiming affinity with one of the Axial Age belief systems. The profane universal order was meant to stand in for the sacred.

Universalist logics of rule, however, were remarkably flexible. Thus, throughout the Middle East and Central Asian space at one time more than a dozen rulers asserted claims to be world conquerors without the material limits to their claims posing apparent contradictions. In-groups and out-groups were poorly defined since people and goods flowed across the frontier zones. For example, the Treaty of Zohab (1639) that ended the Ottoman and Safavid wars recognized a hundred-mile-wide frontier zone that encompassed people and local potentates who had little notion of whose realm they were in and over whom the Ottoman and Safavid rulers had little authority. Goods and ideas flowed interstitially across such boundary zones.

One final important element of such rule must be noted. The notion of universality and the territorial extension of such rule meant that highly diverse religions, ethnicities, and races had to be accommodated. While status and legal differentiation existed, relative tolerance was the norm. Ottomans had to accommodate a large Christian population; the Mughals were the minority in Hindu India. And the Qing dynasty rulers were Manchu, defining themselves by Manchu, Mongol, Han, or Tibetan markers of identification as the situation demanded.

The European turn to the concept of territorially defined sovereignty challenged the composite logic of universalist rule. The claim of territorial sovereignty implied fixed spatial delimitation of authority and thus borders were meant to be barriers to the authority claims of church and empire. The king was emperor in his own kingdom and recognized no higher authority beyond the realm's borders (*Rex est imperator in regno suo*). Roughly from the 16<sup>th</sup> century on, as territorial rulers enhanced their capacity to rule, this also meant the restriction of movement of peoples, goods, and ideas. Languages and dialects became solidified as national languages--a process which would come to full fruition by the 19<sup>th</sup> century through public education and the national army (E. Weber, B. Posen).

The European solidification of the principle of territorial sovereignty, and after 1800 the conjunction of national identity with the territory in question, led to an externally directed process of imposition by force, but also by adaptation and mimicry in other regions. As a result, the concept of borders spread. As the Ottoman expansion reached its limits, by the late 17<sup>th</sup> century, the Ottoman Sultans came to agree on fixed territorial borders in their treaties with Christian powers. Normatively, they also gradually came to recognize some European sovereigns as equals.

Given the need to interact across borders, European monarchs also devised particular regulative rules. Embassies, foreign ministries, the use of particular diplomatic languages and etiquette, the use of large conventions, the rank order of potentates and bureaucrats, became not only rules of engagement, but also became constitutive rules—that is they became markers to define who was entitled to be recognized as a legitimate polity in international relations.

Some of these developments were pushed by increasing European material power in the economic and military spheres, but Ottoman rulers also recognized the greater ability of territorial states to mobilize resources. Throughout the 18<sup>th</sup> and 19<sup>th</sup> century the Ottomans thus engaged in massive bureaucratic reforms. Among these were the creation of a foreign ministry and formal embassies in European capitals—a practice they had not needed given their far-flung network of intermediaries throughout the Mediterranean and beyond. The Qing dynasty engaged in similar reforms, establishing a foreign ministry by the mid-19<sup>th</sup> century. The most dramatic transformation arguably occurred in Japan with the fall of the Tokugawa shogunate, with the Meiji rule leading to a deliberate strategy to “become” European.

It is impossible to overstate the magnitude of material and ideational changes that befell the non-European political and social systems. Indeed, they required a fundamental reconceptualization what the polity represented and what it normatively should be. Center-periphery perspectives that privileged imperial capitals, replete with cosmological views of those capitals as sacrally privileged, had to give way. Instead, a de-centered view of the polity took its place, now conceived simply as one among juridical equals. European scientific practices rather than privileged texts became sources of knowledge. Mapping became representational rather than symbolic. The geo-body of the nation had to be made manifest (Anderson 1990, 1991; Winichakul 1994). As part of the process borders had to be drawn—sometimes regardless of natural markers-- to demarcate that political authority extended to that border but not an inch beyond.

This interaction of these two competing views of how the social and political world should hinge together revealed some irreconcilable tensions. Universalist empires recognized differences among people in terms of language, religion and cultural practices and institutionalized diverse legal classifications and rights. But these identities were not tied to a fixed territorial space and were fluidly interpreted.

The gradual emergence of linking the territorial state to a specific population and a specific identity challenged such fluidity. The Western model of high capacity territorially, circumscribed political authority also meant that by the 19<sup>th</sup> century European polities did not run wide but reached deep, to reverse Gellner's pithy description of universalist empires. The combination of national identification, that is, the precise specification of in-group (citizens) and out-group (non-citizens) and the higher demands placed on minority communities to adjust to the dominant nationalist identity proved fatal to the multi-ethnic, multi-religious empires. Civil wars, territorial fragmentation and ethnic cleansing were among some of the consequences that came with the extension of the Westphalian world order. Domestic resistance within the imperial administrations themselves (such as the resistance to the Tanzimat in the Ottoman Empire and resistance to the Tongzhi and Guanxu reforms in the late Qing dynasty) also made accommodation to domestic and international pressures more difficult.

The interaction between these two logics of rule also led to two major effects in Europe. First, as European material power grew, protagonists of imperial expansion could now not justify such expansion by a universalist mandate. As noted, the Westphalian system implied fixed, mutually recognized borders and juridical equality. Proponents of empire thus developed alternative normative justifications based on Western international law. Only those polities considered civilized deserved juridical equality and entitled to autonomy. Racial and cultural criteria combined with legal justifications. Polities that normatively did not justify their authority by the principle of sovereign equality could be deemed uncivilized since they did not adhere to Westphalian principles. Thus, by inverted logic, Western powers could deploy the principles of territorial sovereignty and juridical equality to deny that very equality to other polities, such as the Qing dynasty. The flow of goods, peoples and ideas could correspondingly be dictated on the terms of the metropole.

Intensification of European national identity formed a second consequence of such civilizational ranking. Whatever class differences might exist in the Western states, the lower classes could identify with their own, allegedly superior, nation in civilizational and racial terms. Thus, if some cosmopolitan tendencies might be discerned in European capitals in the 18<sup>th</sup> century; by the 19<sup>th</sup> century those had disappeared (Kleingeld 1999, Zhang 2015). In other words, the emergence of territorially defined states with national identities combined with international law and racial criteria to deny non-Europeans legal personality and to deny them membership in the "Family of Nations," and by doing so the process conversely enhanced a particular European view of Self.

The Meiji reformers astutely drew the conclusion that to acquire legal personality, and thus to assure Japan's sovereignty, meant adopting a Western identity. Their efforts at industrial and military modernization are well known but they also deployed the Western normative justifications of sovereignty and Western practices of state building in areas of map making, census taking, border demarcation, and international law (Boyle 2016). American and Dutch legal scholarship formed part of this process. In an exercise of legal judo, it set out to justify its own imperial pursuits by deploying Western international law which previously had been used against Japan. Since the Qing held to the universalist, tributary view of international relations, Japan claimed entitlement over Taiwan, the Ryukyu and other areas that were nominally part of the Qing realm. In short, Japan, now recast as Western and civilized strategically used such narrative tropes to depict its Asian neighbors as inferiors.<sup>1</sup>

Modern territorial states and the notion of the nation-state were thus intrinsically tied to the categorization of the "Other" as civilized or uncivilized; those juridically entitled to equality or not; those deserving of autonomy or legitimate targets for expansion. In parceling out the various geographic spaces, the creation of borders in effect named and made states and people.<sup>2</sup> Latin American states emerged by accepting the provincial borders used by the Iberian metropolises. African states, once independent, accepted the imperial borders drawn by the Berlin conference and other agreements, and the Cairo declaration of 1964 reaffirmed their commitment to maintain those borders in the future. Diverse peoples that had never seen themselves as a singular community, now became identified as citizens of newly formed and newly named states. As Sukarno famously remarked, "the Dutch made Indonesia."

The implications of this massive transformation are with us today. Borders serve as barriers to the free movement of people and goods. Citizens of recognized states gain access to international travel and can demand protection under bilateral and multilateral legal agreements. Entry to a foreign state requires the explicit consent of the government in question. Categorization, classification, and documentation confer specific identities. Who is granted a passport? What visa requirements, and specific criteria can be used to bar entry, etc.? The disciplining of movement directly affects individuals who are not clearly defined as nationals of a recognized state, or might lack documentation, or who seek entry on grounds that the hosting state does not acknowledge as legitimate. Consequently, their opaque status confers less defined rights and protection. Some passports thus grant citizens of certain states far more access to the international system than others. For example, Palestinian passport holders can travel to many states but face far more visa requirements than, say, the holders of a Japanese passport (The Henley Index). Moreover, the holders of a Palestinian passport are not recognized as citizens of an international state by many countries.

A second category, refugees, fleeing conflicts, natural disasters, and global warming likewise confront barriers to their movement. The very classification of who may count as a legitimate "refugee" is open to interpretation. Under the non-refoulement principle "No Contracting State shall expel or return ("refouler") a refugee...where his [or her] life or freedom would be threatened on account of his [or her]

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<sup>1</sup> Suzuki 2009, Iriye 1989.

<sup>2</sup> For example, as Rawski notes, the territory occupied by speakers of Chinese was only one part of a larger multi-ethnic empire. The idea of Sinicization, the idea that the empire was Chinese, she argues is a product of 20th century Chinese nationalist discourse. Rawski, *Reenvisioning empire*, p. 841-42. Some historians suggest one should speak of the Qing dynasty rather than Qing China, or even the Qing Empire.

race, religion, nationality, membership of a particular social group or political opinion.”<sup>3</sup> But that principle stands in tension with the exclusionist idea that is fostered by territorial identity, nationhood, and the function of the border as defining the limits of obligations and rights to a specific group. Japan, for example, while being a major donor to the UNHCR, hosted only 1400 refugees in 2021.<sup>4</sup> By comparison Germany had over 2 million.<sup>5</sup>

Finally, individuals deemed stateless altogether—for example persecuted minorities in some countries—can be denied citizen rights by their own governments. And, without state authorized documentation, they are barred from international movement altogether.<sup>6</sup>

### Conclusion

This short essay has drawn attention to the myriad of ways in which territorial states with formalized borders created barriers to the movement of people, ideas, and goods. But the conflicting logics of rule of universalist empires and states also entailed different views on the nature of sovereignty (universalist or particular); the institutionalization and exercise of such authority (extensive in the case of empire, intensive in territorial states); and the normative justification of authority. Indeed, the very identity of polities and peoples altered in the gradual expansion of the Westphalian system of territorial sovereignty at the expense of universalist empires.

However, the methods by which states restructured and indeed made possible transnational interaction have been beyond the purview of this short paper.<sup>7</sup> The juridical specification of unique sovereignty to the domestic realm, and empowering sovereigns to act as the conduits of international relations, also allowed states to structure formalized international agreements. As Polanyi noted, states and markets—domestic as well as international—were not antithetical. Sovereign territoriality did away with overlapping jurisdictions of the feudal era. And, whereas universal empires largely combined political hierarchy with their relevant economic space, states, by means of mutual contracting, could extend economic interaction far beyond their domestic realm. In this sense, paradoxically, borders facilitated a truly world-economy.

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<sup>3</sup> Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. UNHCR, Geneva. 26 January 2007

<sup>4</sup> <https://www.unhcr.org/en-us/japan.html?query=japan>

<sup>5</sup> <https://www.unhcr.org/en-us/publications/operations/63592bf87/bi-annual-fact-sheet-2022-09-germany.html?query=japan>

<sup>6</sup> Climate refugees straddle the categories of refugee and stateless individuals. Park 2011. The UNHCR while holding that climate refugees should not be returned to their country of origin, nevertheless, did not prevent New Zealand from barring a Kiribati claimant.

<sup>7</sup> For a fuller discussion, see Spruyt 1994.