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**The Legacy of Westphalia: The Nation-State in Contemporary  
Politics**

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## Abstract and Keywords

### Abstract

The Peace of Westphalia marked the emergence of the modern international system, introducing key principles like territorial integrity, non-intervention, and state equality. This paper examines the origins of the Westphalian model, its interpretation in major International Relations theories, and its relevance today. Although Westphalian ideals continue to inspire the international system, they face challenges from secessionist movements, identity conflicts, supranational institutions, and non-state actors. Today's international system reflects a hybrid order where traditional state authority coexists with post-Westphalian dynamics of interdependence, shared rule, and normative transformation. This shift calls for a reassessment of sovereignty not as a fixed doctrine, but as a flexible and context-dependent practice.

**Keywords:** Westphalia, Sovereignty, International Order, Global Governance, Interdependence.

### Resumen

La Paz de Westfalia marcó la llegada del sistema internacional moderno, introduciendo principios clave como la integridad territorial, la no intervención, y la igualdad de los Estados. Este trabajo examina los orígenes del modelo westfaliano, su interpretación en las principales teorías de Relaciones Internacionales, y su relevancia en la actualidad. Aunque los ideales westfalianos siguen inspirando el sistema internacional, se enfrentan a los retos que plantean los movimientos secesionistas, los conflictos de identidad, las instituciones supranacionales, y los actores no estatales. El sistema internacional actual refleja un orden híbrido en el que la autoridad estatal tradicional coexiste con dinámicas postwestfalianas de interdependencia, gobernanza compartida, y transformación normativa. Este cambio exige una reevaluación de la soberanía, no como una doctrina fija, sino como una práctica flexible y dependiente del contexto.

**Palabras clave:** Westfalia, Soberanía, Orden Internacional, Gobernanza Global, Interdependencia.

## Abbreviations

<i>Abbreviation</i>	<i>Meaning</i>
<i>COP</i>	Conference of the Parties
<i>ECSC</i>	European Coal and Steel Community
<i>EEC</i>	European Economic Community
<i>EU</i>	European Union
<i>ICC</i>	International Criminal Court
<i>ICCPR</i>	International Covenant on Civil and Political Rights
<i>ICESCR</i>	International Covenant on Economic, Social and Cultural Rights
<i>ICJ</i>	International Court of Justice
<i>IMF</i>	International Monetary Fund
<i>IR</i>	International Relations
<i>NATO</i>	North Atlantic Treaty Organization
<i>NGOs</i>	Non-government organizations
<i>PRC</i>	People's Republic of China
<i>R2P</i>	Responsibility to Protect
<i>ROC</i>	Republic of China
<i>SDGs</i>	Sustainable Development Goals
<i>TFEU</i>	Treaty on the Functioning of the European Union
<i>UN</i>	United Nations
<i>UNESCO</i>	United Nations Educational, Scientific and Cultural Organization
<i>UNFCCC</i>	United Nations Framework Convention on Climate Change
<i>WTO</i>	World Trade Organization



## Index

<b>1. Introduction .....</b>	<b>10</b>
<i>The Sustainable Development Goals (SDGs) .....</i>	<i>11</i>
<b>2. Methodology .....</b>	<b>12</b>
<b>3. The Westphalian Nation-State: Historical Context and Theoretical Framework .....</b>	<b>13</b>
3.1. <i>Origins of the Nation-State .....</i>	<i>13</i>
3.2. <i>Theoretical Frameworks: The Nation-State in IR Theory .....</i>	<i>16</i>
3.3. <i>The Legacy of Westphalia .....</i>	<i>21</i>
3.4. <i>Is Westphalia a Myth? .....</i>	<i>23</i>
<b>4. Contemporary Challenges to Westphalian Sovereignty .....</b>	<b>25</b>
4.1. <i>Separatism: Secessionist Movements and Regional Nationalisms.....</i>	<i>25</i>
4.2. <i>Multinational States and Identity Crises .....</i>	<i>29</i>
4.3. <i>Global Governance and the Erosion of State Sovereignty.....</i>	<i>34</i>
4.4. <i>Non-State Actors and the End of State-Centrism.....</i>	<i>39</i>
<b>5. Hybrid Sovereignty: Between Westphalia and Post-Westphalia.....</b>	<b>44</b>
5.1. <i>Selective Sovereignty: The Strategic Use of Westphalian Principles.....</i>	<i>44</i>
5.2. <i>Layered Sovereignty: Multilevel Governance .....</i>	<i>45</i>
5.3. <i>Emergence of Post-Westphalian Norms: Uneven and Contested.....</i>	<i>46</i>
<b>6. Conclusions.....</b>	<b>48</b>
<b>7. Bibliography .....</b>	<b>49</b>

## 1. Introduction

The Westphalian model of statehood is often regarded as the foundation of the modern international system. Emerging from the treaties that ended the Thirty Years' War in 1648, this model introduced the principles of territorial integrity, non-intervention, and legal equality among states. These principles are still at the core of international relations today.

Despite this influence, the Westphalian system remains a subject of debate. Scholars question whether it ever truly existed in practice or whether it represents a theoretical ideal rather than a historical fact. Moreover, in today's global order - marked by secessionist movements, transnational challenges, and supranational institutions - traditional notions of sovereignty are often contested.

This thesis aims to critically examine the historical foundations and resilience of the Westphalian nation-state, while also exploring the challenges it faces in the 21st century. It begins by tracing the historical origins of the nation-state and the political conditions that gave rise to the Westphalian model. This paper then explores how different International Relations ("IR") theories interpret the principles of state sovereignty, followed by an analysis of Westphalia's contested legacy.

The second half of this study addresses contemporary challenges to Westphalian sovereignty, including secession, multinational identity, global governance, and the role of non-state actors. Ultimately, the study seeks to evaluate whether Westphalia remains a relevant framework or has been surpassed by new forms of political organization.

This research is relevant to the academic community because globalization, shifting power structures, and the rise of non-state actors are placing core Westphalian principles under growing pressure. Examining these challenges helps reassess the viability of the state-centric international order.

## The Sustainable Development Goals (SDGs)

This research engages with several of the United Nations Sustainable Development Goals (“**SDGs**”), particularly those related to peace, equality, governance, and international cooperation. While it is not a policy proposal, this paper aims to deepen understanding of how outdated models of sovereignty can impact real people and communities around the world.

- **SDG 16. Peace, justice and strong institutions.** This project contributes to peacebuilding and justice because it examines how sovereignty is configured, exercised, and sometimes abused. The case of the Rohingya in Myanmar, for example, shows how state power can be used to justify exclusion and violence. The international community must not remain oblivious to these abuses.
- **SDG 10. Reduced inequalities.** Conflicts examined in this thesis are often rooted in historical and structural inequalities among ethnic, regional, or cultural groups. I hope this research brings light to these conflicts and urges the international community to act where and when needed.
- **SDG 17. Partnership for the goals.** The weakening of traditional Westphalian sovereignty shows how necessary international cooperation has become. Global problems cannot be solved by individual states acting alone. This thesis reinforces the idea that multilateral institutions and partnerships are necessary for tackling global challenges like migration and human rights abuses.

## 2. Methodology

This thesis adopts a qualitative research methodology, grounded in an interpretative approach, to understand how the principles associated with the Peace of Westphalia continue to shape (and to be contested within) the contemporary international system. The goal of this work has been to assess the relevance and adaptability of Westphalian sovereignty.

Hence, the research draws on a combination of primary and secondary sources, with an emphasis on document analysis. Primary materials include legal texts such as the Peace of Westphalia (1648), the UN Charter (1945), and other international legal instruments. Secondary sources such as academic articles, books, policy reports, and IR literature have been used to build a comprehensive theoretical framework.

Moreover, case studies (such as Catalonia, Myanmar, Brexit, and Taiwan) have served as qualitative illustrations. These cases were selected strategically, based on their capacity to reflect different challenges to Westphalian principles: secessionism, identity crises, post-national governance, and contested statehood. The selection was also guided by the diversity of political and geographical contexts, enabling a broader analysis of how sovereignty is exercised, claimed, or eroded across regions.

Due to resource and access limitations, direct fieldwork or interviews were not feasible. Instead, the research relied on publicly accessible materials, including digital legal archives, reports from international organizations, and scholarly databases. In some cases, the opacity of state data (particularly from non-transparent actors) posed challenges. For example, assessing the treatment of the Rohingya population and the broader crisis of national identity in Myanmar was complicated by the government's control over information and its suppression of dissenting narratives. In those cases, triangulation and cross-verifying information became essential.

Ultimately, this methodological approach aims to offer a critical and context-sensitive assessment of sovereignty as a political practice shaped by historical legacies, theoretical constructs, and contemporary politics.

### 3. The Westphalian Nation-State: Historical Context and Theoretical Framework

The modern international system is deeply rooted in the legacy of the Peace of Westphalia. The Treaty marked the end of the Thirty Years' War in 1648 and the start of a new political order based on the principles of territorial integrity, non-interference, and legal equality among states.

This section provides a conceptual foundation for understanding how the Westphalian model of sovereignty came to be. It begins with a historical overview of the origins of the nation-state; introduces key theoretical frameworks in IR that interpret the function and resilience of the Westphalian system in different ways; and explores the enduring legacy of the Westphalian system.

#### 3.1. Origins of the Nation-State

The Thirty Years' War was a complex conflict that involved multiple parties and was fought for different reasons, including religious, dynastic, territorial, and commercial motives. Most scholars signal the start of the war in 1618, although rivalries between European countries had been recurrent in the 16th century<sup>1</sup>.

One underlying cause of the Thirty Years' War was the Protestant Reformation and the subsequent fragmentation of religious authorities across Europe. The Reformation challenged the Holy Roman Empire's hegemony by undermining the authority of the Pope and promoting alternative interpretations of Christianity, such as Lutheranism and Calvinism.

To resolve these tensions, Ferdinand I of Habsburg negotiated the Peace of Augsburg in 1555 (on behalf of his brother Charles V), establishing the peaceful coexistence of

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<sup>1</sup> European conflicts in the 16th century include the French Wars of Religion, the Anglo-Spanish War (1585-1604), and the Eighty Years' War (1568-1648), among others.

Catholicism and Lutheranism and the fundamental rules for peace in legal form (Yinhong, 2019). The treaty laid down the famous principle of “cuius regio, eius religio” in Article 23:

“No estate shall induce another's subjects to accept his religion and abandon the other's, nor shall he take those subjects under his protection or in any way defend them in such actions. This rule, however, is not intended to apply to the obligations of those who have long been subject to their lord's rule, which shall remain undiminished” (Peace of Augsburg, 1555).

According to the Peace of Augsburg, the person who governed the territory had the power to choose its religion. Now, what if the ruler did not share the faith of the population they governed? That is precisely what occurred in Bohemia, modern-day Czech Republic, in the early 17th century.

Christian Emperor Rudolf II ruled Bohemia at the time, but most of its population was Protestant. Religious tensions arose again, and Emperor Rudolf II reluctantly signed a Letter of Majesty granting tolerance for Protestantism. However, when Ferdinand II of Habsburg, a devoted Catholic, took power in 1617 and threatened to revoke the Letter of Majesty, it triggered a Bohemian revolt that led to the Thirty Years' War (Kelleher & Brockington, 2022).

This revolt, known as the Defenestration of Prague, marked the beginning of a broader and more destructive conflict. Protestant nobles threw two Catholic governors out of a castle window, symbolizing their rejection of Habsburg authority and igniting the first phase of the Thirty Years' War. What began as a localized rebellion quickly expanded into a pan-European struggle as major powers such as Spain, France, Sweden, and various German principalities entered the war.

The conflict, which lasted for three decades, remains one of the longest and deadliest in modern European history. It inflicted catastrophic social and economic damage, especially in the German states, where widespread famine, disease, and violence caused immense suffering. Estimates of total casualties, both direct and indirect, reach as high as eight million (Walker, 2022).

The war finally ended with the signing of the Peace of Westphalia in 1648, consisting of the Treaties of Münster and Osnabrück. The Peace brought an end to both the Thirty Years' War and the Eighty Years' War<sup>2</sup> and is widely regarded as the foundation of modern nation-state sovereignty (Farr, 2005).

The Peace of Westphalia codified the principle of state sovereignty through several key provisions. Article LXIV reaffirmed the doctrine of "cuius regio, eius religio" from the Peace of Augsburg and formally recognized the authority of territorial rulers to govern independently within their borders - free from external interference, including that of the Emperor. This article enshrined the principles of territorial integrity, political autonomy, and non-intervention as foundational to the emerging international order:

"And to prevent for the future any Differences arising in the Politick State, all and every one of the Electors, Princes and States of the Roman Empire, are so establish'd and confirm'd in their antient Rights, Prerogatives, Libertys, Privileges, free exercise of Territorial Right, as well Ecclesiastick, as Politick Lordships, Regales, by virtue of this present Transaction: that they never can or ought to be molested therein by any whomsoever upon any manner of pretence" (Peace of Westphalia, 1648).

Moreover, Article LXV affirmed the legal equality of states within the Empire and granted them the freedom to conduct their foreign policy, albeit with certain restrictions. States were permitted to form alliances as long as they did not undermine the Emperor, the public peace, or the treaty's terms. This provision represented a significant step toward the modern concept of international legal sovereignty:

"They shall enjoy without contradiction, the Right of Suffrage in all Deliberations touching the Affairs of the Empire; but above all, when the Business in hand shall be the making or interpreting of Laws, the declaring of Wars, imposing of Taxes, levying or quartering of Soldiers, erecting new Fortifications in the Territorys of the States, or reinforcing the old Garisons; as also when a Peace of Alliance is to be concluded, and treated about, or the like, none of these, or the like things

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<sup>2</sup> The Eighty Years' War (1568-1648) refers to the war of Netherlands independence from Spain.

shall be acted for the future, without the Suffrage and Consent of the Free Assembly of all the States of the Empire: Above all, it shall be free perpetually to each of the States of the Empire, to make Alliances with Strangers for their Preservation and Safety; provided, nevertheless, such Alliances be not against the Emperor, and the Empire, nor against the Publick Peace, and this Treaty, and without prejudice to the Oath by which every one is bound to the Emperor and the Empire” (Peace of Westphalia, 1648).

Overall, the Peace of Westphalia introduced key principles that redefined political authority in Europe, including state sovereignty, territorial integrity, non-intervention, and the legal equality of states. In doing so, it laid the groundwork for a new international order that would continue to evolve in the centuries that followed. The Peace of Westphalia was not just an end to war but a turning point in political philosophy.

### 3.2. Theoretical Frameworks: The Nation-State in IR Theory

The Peace of Westphalia marked the beginning of the modern international system. The treaty inaugurated the principle of state sovereignty (Janis, 1993) and fueled the shift from hierarchical structures under the Holy Roman Empire to independent political units.

Although the Westphalian model has evolved over time, its principles continue to inform major theoretical approaches in IR - including Realism, Liberalism, and Constructivism. This section examines how each of these theories engages with the Westphalian principles of sovereignty and the nation-state.

#### 3.2.1. Realism: Sovereignty and Power Politics

Realism has been the dominant theory in IR since the inception of the discipline, and it emphasizes the competitive and conflictual nature of global politics (Korab-Karpowicz, 2023). According to realist thought, the international system is anarchic



due to the absence of a central governing authority. In this system, states emerge as the main actors and are driven by security concerns and national interests.

Realism in IR is grounded in four core assumptions. First and foremost, it adopts a state-centric perspective, viewing the state as the primary actor in global affairs. While individuals, non-governmental organizations, and international institutions do play roles, their influence is generally perceived as limited compared to that of states (Antunes & Camisão, 2018). Second, Realism treats the state as a unitary actor, meaning it acts with a single set of interests regardless of internal divisions. Third, the state is seen as a rational actor, one that makes decisions based on calculated efforts to maximize utility and achieve strategic goals (Duryea, 2022).

The fourth core assumption is that the international system is anarchic. There is no overarching authority above states. In this environment of self-help, states must prioritize their own security and survival above all else. This condition leads to a constant pursuit of power, as it is considered essential to safeguard sovereignty and deter threats, both internal and external. In the realist framework, the most vital national interest is the survival of the state, which is inherently tied to the power it can project and defend (Trifunović & Ćurčić, 2021).

In this view, power is the primary currency in international relations and states must continuously seek to protect themselves through military strength and strategic alliances. Realists argue that mistrust and the constant possibility of conflict are natural outcomes of an anarchic system, making war and competition inevitable features of international politics.

That mistrust between states and proneness to conflict brings about the “security dilemma”. The term was coined in the 1950s by realist thinker John H. Herz, who defined it as a structural notion in which the self-help attempts of states to look after their security needs tend, regardless of intention, to lead to rising insecurity for others

as each interprets its own measures as defensive and measures of others as potentially threatening<sup>3</sup>.

One way Realism addresses the insecurity stemming from the anarchic system is through the concept of the balance of power. According to Hans J. Morgenthau, the balance of power is “an actual state of affairs in which power is distributed among several nations with approximate equality”<sup>4</sup>. This principle holds that national security is enhanced when military capabilities are distributed so that no one state is strong enough to dominate all others.

The realist conception of the state is rooted in the traditions of the Westphalian system (Bloor, 2022), where sovereignty affirms a state’s exclusive authority over war, diplomacy, and defense. This perspective justifies the realist belief that states must depend on self-help to survive in an anarchic international system.

### *3.2.2. Liberalism: Institutional Order and Cooperation*

Both realists and liberals agree that the international system is anarchic, meaning there is no central authority above states. However, they differ in how they interpret this condition and what it means for state behavior and international outcomes.

Realists see anarchy as a source of insecurity that forces states to rely on self-help, prioritize power, and prepare for conflict, making war and rivalry unavoidable. In contrast, liberals believe military and political conflict can be reduced through international institutions and a system of interdependence (Bloor, 2022).

In general, Liberalism offers a more optimistic view of international relations than realism does. Its core principles are institutionalism, interdependence, and the democratic peace theory. Liberalism builds on Westphalian principles but emphasizes

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<sup>3</sup> See Herz, J. ‘Idealist Internationalism and the Security Dilemma’, *World Politics*, 2(2), 157-180. Cambridge University Press.

<sup>4</sup> See Morgenthau, H. J. (1954). *Politics among nations: the struggle for power and peace*. (2d ed., rev. and enl.) Knopf.

the possibility of cooperation among sovereign states. According to liberals, the effects of the anarchic character of the international system can be mitigated through institutions and norms that generate a sense of interdependence.

Interdependence in world politics refers to situations characterized by reciprocal effects among countries or among actors in different countries (Keohane & Nye, 2012). If two or more countries depend on each other for resources, they are less likely to go to war because they would be compromising their own survival. Indeed, they are more willing to cooperate than to compete.

Most recently, neoliberals argue that international institutions facilitate international cooperation (Dunne et al., 2013). According to Keohane (1982), international regimes can make agreements easier if they provide frameworks that establish legal liability, improve information exchange, and minimize transaction costs<sup>5</sup>.

Another cornerstone of liberal thought is the democratic peace theory. Liberals believe that democracies are less likely to go to war with one another. First, because democracies have internal restraints on power; and second, because they tend to see each other as legitimate and unthreatening and are more willing to cooperate (Meiser, 2018).

In essence, liberals accept the Westphalian system but go beyond it. Liberal thought argues cooperation is essential in an anarchic system and states might have to give up some of their sovereignty for the greater good. In other words, liberal institutions preserve state sovereignty but constrain it through rules-based cooperation.

### *3.2.3. Constructivism: The Role of Identity and Norms in State Behavior*

Constructivism is a relatively new school of thought that emerged in the early 20th century. The theory's spread in IR is linked to the end of the Cold War in the 1990s,

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<sup>5</sup> See Keohane, R. O. (1982). The Demand for International Regimes. *International Organization*, 36(2), 325–355. <http://www.jstor.org/stable/2706525>

an event that traditional theories such as Realism and Liberalism failed to account for (Theys, 2018).

Unlike Realism and Liberalism, which emphasize the anarchic nature of the international system, Constructivism posits that international reality is socially constructed. Scholars like Alexander Wendt argue that "anarchy is what states make of it"<sup>6</sup> - suggesting that the meanings of core concepts like anarchy, sovereignty, and power are not fixed but contingent and subject to change through social interaction.

According to constructivist theory, the behavior of actors within the international system is a product of their identities and interests, rather than the structure of the system itself (Bloor, 2022). Constructivists contend that state identities are not fixed or singular; rather, they are multiple and socially constructed through interaction with other actors (Theys, 2018). These identities are dynamic and subject to change over time as states reinterpret their roles and relationships.

Challenging the rationalist assumption of exogenously determined interests, Wendt (1994) argues that "interaction at the systemic level changes state identities and interests". Therefore, structural change within the international system is possible, as the system itself is shaped by evolving relations rather than immutable material forces.

Furthermore, constructivists emphasize that norms about sovereignty, territorial integrity, and national identity are not natural givens but historically and socially contingent. As a result, they see the Westphalian model of statehood as a historically specific configuration challenged by postcolonial states, supranational organizations, and non-state actors. Wendt (1994) describes this evolution as the "internationalization of political authority", which points towards a gradual but structural transformation of the traditional state system.

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<sup>6</sup> See Wendt, A. (1992). Anarchy is what States Make of it: The Social Construction of Power Politics. *International Organization*, 46(2), 391–425. <http://www.jstor.org/stable/2706858>

### 3.3. The Legacy of Westphalia

The idea of the Westphalian system often comes up in discussions about the origins of the modern international order, but what does it mean? The concept was popularized by Leo Gross in his 1948 article “Peace of Westphalia”<sup>7</sup>, where he described the treaties as marking “the end of an epoch and the opening of another”.

What made Westphalia such a turning point was the shift away from the medieval vision of a unified Christian commonwealth, led by the Pope and the Emperor, toward a system based on independent, sovereign states (Grote, 2006). This new international order introduced core principles that still influence international relations today.

The Westphalian system rests on three core ideas: territorial integrity, non-interference in domestic affairs, and legal equality of states. Over time, these principles have been codified into international law and guide the behavior of key international organizations, including the United Nations (“**UN**”), the North Atlantic Treaty Organization (“**NATO**”), and the International Court of Justice (“**ICJ**”).

The UN Charter reflects these core principles in explicit terms. Article 2(1) states that the organization is “based on the principle of the sovereign equality of all its Members” (UN Charter, 1945). This confirms that the legal equality of states is a foundational norm of the international system.

Likewise, territorial integrity is central to the UN framework. Article 2(4) declares that “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” (UN Charter, 1945).

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<sup>7</sup> See Gross, L. (1948). The Peace of Westphalia, 1648-1948. *The American Journal of International Law*, 42(1), 20–41. <https://doi.org/10.2307/2193560>

The principle of non-intervention is embedded in Article 2(7) of the UN Charter, which specifies that “nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state” (UN Charter, 1945). This clause upholds the idea that internal affairs fall within the exclusive domain of sovereign states. Thereby, the ability of the UN or other external actors to interfere is limited, authorized only under special circumstances such as in response to threats to international peace and security.

These principles have also become established through international legal practice, mainly the jurisprudence of the ICJ. For instance, in the “Military and Paramilitary Activities in and against Nicaragua” case<sup>8</sup>, the Court found that the United States had violated international law by supporting Contra rebels in Nicaragua, in breach of the principle of non-intervention. As the Court stated:

“The Court concludes that the United States of America, by training, arming, equipping, financing and supplying the contra forces... has acted, against the Republic of Nicaragua, in breach of its obligation under customary international law not to intervene in the affairs of another State” (Nicaragua v. United States of America, 1986).

While Westphalian principles remain central to the international system, they should not be viewed as unchanging. Institutions within this system are relatively flexible and open to contestation and transformation (Krasner, 1995).

Proof of this is that principles of sovereignty and non-intervention have adapted to changing global scenarios. For example, the creation of supranational bodies like the European Union (“**EU**”) reflects a voluntary pooling of sovereignty in pursuit of deeper regional integration.

In sum, the Peace of Westphalia established key principles that continue to inform the international system today. Indeed, territorial integrity, non-interference, and legal

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<sup>8</sup> See International Court of Justice. (1986). *Military and Paramilitary Activities in and against Nicaragua* (Nicaragua v. United States of America), Judgment. <https://www.icj-cij.org/case/70>

equality of states are still at the core of our political order. However, the model is evolving as globalization, and supranational institutions challenge the traditional notion of state sovereignty.

### 3.4. Is Westphalia a Myth?

In this paper, we have established that the Peace of Westphalia marked a new era in international relations. However, it is important to acknowledge that some scholars have referred to the Westphalian system as a “myth”. This section aims to explore the arguments that sustain that allegation.

Stephen D. Krasner’s “Compromising Westphalia”<sup>9</sup> is one of the most widely cited critiques of the Westphalian model. Krasner (1995) argues “the Westphalian model has never been an accurate description of many of the entities that have been called states”. Instead, he sees the Westphalian model as a narrative constructed in IR theory, a retrospective projection that did not create modern sovereignty.

Krasner also argues that sovereignty has always been compromised, in the sense that there have always been breaches of Westphalian sovereignty and its core principles: “violations of the principles of territoriality and autonomy have been an enduring characteristic of the international environment” (Krasner, 1995). This undermines the idea of a sacred, uninterrupted Westphalian order. The breaches of Westphalian principles are not new and not a sign of decline because they have always existed.

Ultimately, Krasner suggests that rather than being regarded as an empirical regularity, the Westphalian model is better conceptualized as a convention or reference point. It is more an ideological concept than a historical one.

Other scholars have reinforced Krasner’s argument that the Westphalian model is more myth than historical evidence. Andrew McRae (2005), for example, argues that

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<sup>9</sup> See Krasner, S. D. (1995). Compromising Westphalia. *International Security*, 20(3), 115–151. <https://doi.org/10.2307/2539141>

“the conceptualization of the Westphalian state system is a pedagogical oversimplification that is based on flawed assumptions”.

In McRae’s (2005) view, the “conceptual importance of the Peace of Westphalia must be called into question”, as “the evidence does not suggest that Westphalia was the majestic portal which leads from the old into the new world”, like Leo Gross argued. McRae’s critique highlights how the centrality of Westphalia in IR discourse reflects theoretical convenience rather than historical accuracy.

Likewise, Andreas Osiander challenges the widely accepted narrative in IR that sees Westphalia as the origin of modern sovereignty<sup>10</sup>. In his view, “Westphalia is really a product of the nineteenth and twentieth century fixation on the concept of sovereignty” (Osiander, 2001). That is, the idea of Westphalia as the origin of the sovereign state system is a retrospective construction rather than a historically grounded reality.

According to Osiander, the treaties that ended the Thirty Year’s War do not confirm the sovereignty of any party. He argues that the Peace of Westphalia is “silent on the issue of sovereignty” and does not “refer to any corollary of sovereignty either, such as non-intervention”. Instead, he suggests that “it is because of the arbitrary habit of regarding 1648 as a milestone in the evolution of sovereignty that this concept is projected into the settlement” (Osiander, 2001).

In conclusion, although the Peace of Westphalia is often presented as the foundational moment for the modern international system, critical scholarship suggests that this narrative may rest on retrospective interpretations rather than historical facts. This, however, remains a contested issue in IR. While Westphalia may not have directly invented or formalized modern sovereignty, it undoubtedly signaled the beginning of a new era in state relations. The following section examines contemporary developments that challenge, reinterpret, or reaffirm this contested model of sovereignty.

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<sup>10</sup> See Osiander, A. (2001). Sovereignty, International Relations, and the Westphalian Myth. *International Organization*, 55(2), 251–287. <http://www.jstor.org/stable/3078632>



## 4. Contemporary Challenges to Westphalian Sovereignty

The Peace of Westphalia established the foundations for the modern concept of the sovereign nation-state, including the principles of territorial integrity, non-interference in domestic affairs, and legal equality among states. However, this model has recently come under pressure from different dynamics.

Contemporary challenges to Westphalian sovereignty include (a) secessionist movements and regional nationalisms; (b) multinational states and identity crises; (c) global governance and the erosion of state sovereignty; and (d) the recognition of non-state entities. Each of these will be discussed in this section.

### 4.1. Separatism: Secessionist Movements and Regional Nationalisms

The Westphalian state is a system of political authority grounded in the principles of territoriality and autonomy (Krasner, 1995). According to this model, each state exercises exclusive authority within its borders, free from external interference. In recent years, separatist movements have directly challenged the Westphalian principle of territorial integrity by seeking to redraw borders or assert autonomous governance within existing states.

Separatist movements are active political movements within an independent state that aspire to some form of territorial separatism, ranging from autonomy to independence (Heraclides, 1992). These can be classified into different categories depending on the grade of autonomy they are willing to achieve.

Heraclides (1992) distinguishes between limited separatism, secessionism, and secessionism-irredentism. Limited separatists merely demand formal autonomy, such as the Kurds of Iraq. Secession is a demand for formal withdrawal from a central political authority by a member unit based on a claim to independent sovereign status (Pantazopolous, 1995). That was the case of Tamil Eelam in Sri Lanka and Catalonia in Spain. Finally, irredentism refers to movements for independence by small minorities, such as the Armenians in Turkey.

Separatist movements are closely tied to the principle of nationalism. Nationalism is primarily a political principle, which holds that the political and national unit should be congruent (Gellner, 2008). According to Gellner, national sentiments are feelings of anger that arise when that principle is violated, and national movements are actuated by sentiments of this kind.

#### *4.1.1. Self-Determination vs. Territorial Integrity*

At the core of secessionist and nationalist movements is the basic human aspiration for self-determination, understood as peoples' "right to freely determine their political status and freely pursue their economic, social, and cultural development"<sup>11</sup>.

The right to self-determination evolved significantly in the 20th century and is codified in key international legal instruments. In fact, the UN Charter states self-determination as one of its purposes in Article 1(2):

"to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace" (UN Charter, 1945).

Although international instruments codify the principle of self-determination, they do so in broad terms, raising questions such as: Do all peoples possess this right? Is it limited to those under colonial rule? And are there boundaries to its exercise?

The starting point of this discussion is to define what we understand by the term "peoples". The concept has been employed to refer to a variety of groups: the population of a State, the population of a colony, and groups of individuals linked by a common language, ethnicity, or race, whether they comprise the entire population of a State or colony or not (Quane, 1998).

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<sup>11</sup> See Article 1 of both the International Covenant on Civil and Political Rights ("ICCPR") and the International Covenant on Economic, Social and Cultural Rights ("ICESCR").

The problem is that if all these groups are entitled to the right of self-determination, conflicts between competing claims to self-determination will inevitably emerge. A pertinent example is the situation in Spain concerning Catalonia which will be discussed in depth later. What occurs when most of a State (Spain) asserts the right to preserve territorial integrity, while an ethnic or linguistic minority (such as the Catalans) simultaneously asserts a right to secede?

Quane (1998) argues that scholars generally resist recognizing a right to secession in such circumstances. For example, Cassese (1979) contended that the principle of self-determination is acknowledged insofar as it encompasses the right of peoples to self-government, but not the right to secession. Furthermore, endorsing secession from an already independent State appears inconsistent with the spirit of the UN Charter, as this would contradict the principle of territorial integrity.

Quane (1998) concludes that the principle of self-determination, as articulated in the Charter, applies primarily to States (in terms of sovereign equality) and to the inhabitants of Non-Self-Governing Territories (in relation to self-government), as well as to Trust Territories (in relation to self-government or independence).

In short, the application of the principle of self-determination within the context of an already independent state remains highly contested. To further explore these tensions, the following section will examine the case of Catalonia in greater detail.

#### *4.1.2. The case of Catalonia: Independence from Spain?*

Catalonia is a region located in the northeast of Spain. The Spanish state is divided into Autonomous Communities, each of which exercises a degree of self-government. Nonetheless, this decentralization does not imply the erosion of national unity. As established in Article 2 of the Spanish Constitution:

“The Constitution is based on the indissoluble unity of the Spanish Nation, the common and indivisible homeland of all Spaniards, and recognizes and

guarantees the right to autonomy of the nationalities and regions of which it is composed and the solidarity among them all” (Spanish Constitution, 1978).

The article itself already shows how legally delicate the issue is: it simultaneously affirms the unity of the state and acknowledges the distinct identities of the constituent nationalities. Catalonia’s pursuit of independence directly challenges this balance and the Westphalian principle of territorial integrity.

Any discussion of the Catalan independence movement should begin by asking: who are the Catalans, and in what ways do they differ from other inhabitants of Spain? Catalonia possesses a distinct identity marked by its own history, language, and cultural traditions. Many Spanish regions also maintain local cultures and languages, but Catalonia’s identity has been especially politicized, both because of its economic strength and the legacy of suppression under Franco’s regime.

Tensions between Catalonia and the Spanish central government escalated significantly after the 2010 ruling of the Spanish Constitutional Court<sup>12</sup>. In 2006, both the Catalan and Spanish parliaments approved a reformed Statute of Autonomy, which granted Catalonia broader powers. The Statute’s preamble established:

“The Parliament of Catalonia, reflecting the sentiment and will of the citizens of Catalonia, has defined Catalonia as a nation by a large majority” (Organic Law 6/2006, of July 19, 2006, on the reform of the Statute of Autonomy of Catalonia, 2006).

The conservative Popular Party filed a constitutional complaint against the reform and the Constitutional Court issued a ruling in 2010 that struck down and reinterpreted several key articles of the Statute. The Court concluded that while Catalonia constituted a “nationality,” it could not be considered a “nation” with legal standing, and curtailed certain competencies granted by the statute (Spanish Constitutional

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<sup>12</sup> See Tribunal Constitucional [Constitutional Court], *Sentencia 31/2010, de 28 de junio de 2010, Recurso de inconstitucionalidad 8045-2006*, BOE núm. 172, 16 de julio de 2010, pp. 1–491 (Spain). [https://www.boe.es/diario\\_boe/txt.php?id=BOE-A-2010-11409](https://www.boe.es/diario_boe/txt.php?id=BOE-A-2010-11409)

Court, Ruling 31/2010, of June 28, 2010). This decision triggered a surge in pro-independence sentiment.

What initially started as a demand for greater autonomy evolved into a broader push for secession. The turning point came on October 1, 2017, when the Catalan regional government held an independence referendum that had been declared illegal by Spain's Constitutional Court.

Just over a week later, on October 10, Catalan President Carles Puigdemont delivered a statement in the regional parliament in which he declared Catalonia's independence, only to immediately suspend its implementation in hopes of opening dialogue with Madrid (Minder, 2017).

The events of 2017 highlight the tensions between the right to self-determination and the principle of territorial integrity. Catalan leaders framed the referendum as a democratic expression of national will, but the Spanish government viewed it as a threat to national sovereignty. The case of Catalonia offers a clear example of how secessionist movements and regional nationalism challenge the Westphalian model.

#### 4.2. Multinational States and Identity Crises

The Westphalian model is commonly associated with a unified national identity within a sovereign state. National identity can be understood as a sense of belonging to a collective group based on shared history, culture, language, values, and political aspirations.

However, this framework does not apply to all modern states. In countries such as Bosnia and Herzegovina or the Kashmir region, multiple ethnic, cultural, or religious identities coexist, often in contexts of political instability and the marginalization of minority populations.

Before examining these dynamics more closely, it is necessary to clarify the concept of multinationalism and what constitutes a multinational state. As Dieckhoff (2016)

explains, multinationality refers to the coexistence of distinct historical communities with their own culture living within the same state, brought together by conquest or voluntary consent.

Basta (2021) further defines a multinational state as one in which multiple political communities coexist within a single state, with at least one of them seeing itself as a distinct political community. In such states, the legitimacy of the common state is conditional and often contested, since full institutional recognition and self-government for all groups is not guaranteed.

#### *4.2.1. The Challenge of Unity: Integrating Multiple Identities within a Single State*

Managing ethnic, cultural, and religious diversity presents a significant challenge to national cohesion. States often struggle to integrate multiple, and at times conflicting, identities into a shared political framework. This tension can lead to civil unrest, marginalization, or in more severe cases, secessionist conflicts.

As seen in the previous section, the right to self-determination is frequently invoked by separatist movements. In multinational states, minority groups may also claim this right, which once again directly challenges the principle of territorial integrity at the core of the Westphalian model.

Despite this tension, international law provides certain safeguards for minority communities, aiming to protect cultural diversity without necessarily endorsing secession or redrawing state borders. For example, the ICCPR (1966) affirms that minorities have the right to maintain their cultural, linguistic, and religious practices. Article 27 of the Covenant states:

“In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language” (ICCPR, 1966).

Similarly, the General Assembly of the UN passed a “Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities” in 1992. It established the obligation of states to protect the existence of said minorities and to promote their identity:

“States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity” (Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992).

This declaration also underscores that UN bodies and agencies should actively support the implementation of minority rights. Following Article 9:

“The specialized agencies and other organizations of the United Nations system shall contribute to the full realization of the rights and principles set forth in the present Declaration, within their respective fields of competence” (Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992).

In the same way, the United Nations Educational, Scientific and Cultural Organization (“**UNESCO**”) passed a Universal Declaration on Cultural Diversity in 2001. It declared cultural diversity a “common heritage of humanity”, and most importantly framed cultural rights as human rights. Following Article 4:

“The defense of cultural diversity is an ethical imperative, inseparable from respect for human dignity. It implies a commitment to human rights and fundamental freedoms, in particular the rights of persons belonging to minorities and those of indigenous peoples. No one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor to limit their scope” (Universal Declaration on Cultural Diversity, 2001).

In sum, the international framework continues to preserve the Westphalian principle of territorial integrity but compels states to recognize, respect, and integrate minority

groups. Still, managing multiple identities within a single state remains one of the most difficult governance challenges. Many multinational states continue to experience high levels of political instability, discrimination, and contested authority because of unresolved identity conflicts.

A striking example is Myanmar, where the state's failure to include and protect its ethnic and religious minorities (particularly the Rohingya) has led to systemic exclusion and violent repression. This case, which illustrates the consequences of denying recognition and rights to minority communities, will be examined in more detail in the following section.

#### *4.2.2. Fragmented Within: Myanmar and the Crisis of National Identity*

Myanmar - formerly known as Burma - is a country in Southeast Asia and was a British colony from the late 19th century until it gained independence in 1948 (Badertscher, 2025). The history of independent Myanmar is replete with authoritarian and illiberal political regimes that have repressed the prospects of representative governance (Simpson & Farrelly, 2023).

The country is home to over 135 officially recognized ethnic groups, which are categorized into eight major national races: Bamar (68%), Shan (9%), Karen (7%), Rakhine (4%), Chinese (3%), Indian (2%), Mon (2%), other minorities (5%) (CIA, 2025). Most of the population adheres to Buddhism, which is closely tied to the identity of the Bamar, the dominant ethnic group.

However, not all communities residing within Myanmar are officially recognized by the state, and many face social and legal exclusion. These include Tamils, Gurkhas, Muslims, Rohingyas, and others (Rhoads, 2022). Given this complex ethno-linguistic composition, Myanmar clearly qualifies as a multinational state. Yet, rather than fostering inclusion, its history has been marked by persistent conflict between ethnicities (Simpson & Farrelly, 2023).



The exclusion of the Rohingya population from Myanmar's national identity framework is one of the most extreme examples of internal fragmentation within a multinational state. The Rohingya are a Muslim minority group living in Rakhine State and are not among the officially recognized "national races". As a result, they are excluded from full citizenship rights under the 1982 Citizenship Law. Rohingya individuals are also denied the right to self-identify and are instead forced to adopt terms like "Bengali" that reinforce the state's narrative of them as illegal immigrants (Rhoads, 2022).

Myanmar's exclusionary citizenship regime culminated in a humanitarian disaster in August 2017, when the military launched armed attacks and forced thousands of Rohingya to flee their homes in Myanmar's Rakhine State (UNHCR, 2024). Entire villages were burned, thousands were killed, and over 700,000 Rohingya fled across the border into Bangladesh, triggering a regional migrant crisis. The UN described these events as a "textbook example of ethnic cleansing"<sup>13</sup>, though Myanmar's government denied responsibility and framed the violence as a response to terrorism.

Despite the severity of these crimes, very little detailed information has reached the international public, largely due to the government's control over access to Rakhine State and the silencing of survivors. As Habiburrahman describes in his testimony-based book "First, They Erased Our Name"<sup>14</sup>, the state's strategy has involved not only physical expulsion but also the erasure of identity, memory, and narrative.

Eyewitness accounts of massacres, detention, and routine humiliation stand in stark contrast to the official silence and international inaction. The book underscores how the Rohingya have been made invisible, both within Myanmar and in much of the world, despite facing one of the most violent state-sponsored campaigns of the 21st century.

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<sup>13</sup> See Westcott, B., & Smith, K. (2017, September 11). Rohingya violence a 'textbook example of ethnic cleansing,' UN rights chief says. *CNN*. <https://edition.cnn.com/2017/09/11/asia/rohingya-un-ethnic-cleansing/index.html>

<sup>14</sup> See Habiburrahman, & Ansel, S. (2019). *First, they erased our name: A Rohingya Speaks*. Penguin Random House India Private Limited.

In fact, the international response to the atrocities committed in Myanmar has been purely symbolic. Human rights organizations and UN bodies have condemned the violence, but no collective action has been taken to prevent further atrocities or hold perpetrators accountable.

Following the Westphalian model of statehood, states exercise authority over a unified population within fixed borders. Myanmar's case study reveals the fragility of this assumption in practice. The state's exclusion of the Rohingya shows that sovereignty can be exercised without inclusion, recognition, or accountability. The 2017 military operations, framed as internal security actions, were acts of ethnic cleansing aimed at permanently removing a segment of the population.

Yet, the international community's adherence to non-intervention, itself a legacy of Westphalian thinking, allowed the violence to unfold with limited consequences. In this sense, Myanmar exposes the hollow core of the Westphalian ideal: a state may maintain formal sovereignty while systematically denying rights to parts of its population, thereby undermining the internal cohesion and legitimacy that sovereignty is supposed to guarantee.

#### 4.3. Global Governance and the Erosion of State Sovereignty

The concept of sovereignty lies at the heart of the Westphalian model of the nation-state. However, the rise of globalization - defined by Scholte (2008) as the process through which people become more able to engage with each other physically, legally, linguistically, and psychologically - has transformed the way states operate. In this interconnected world, global challenges such as climate change, financial regulation, or migration transcend national borders and require responses that go beyond the scope of any single government.

As Castells (2005) argues, global governance has emerged to fill this gap, since states alone can no longer manage the issues that originate in the global space. He notes that there is a "growing gap between the space where the issues are defined (global) and the space where they are managed (the nation-state)". As a result, national

sovereignty is increasingly shared, delegated, or constrained within multilevel systems of governance involving international institutions and supranational actors.

One of the earliest examples of international institutions is the League of Nations, established after World War I to “promote international cooperation” and to “achieve international peace and security” (Covenant of the League of Nations, 1920). Although the League was ultimately unsuccessful in preventing another war, it introduced the idea that states could be held accountable to a broader set of international norms and decisions, even if it was at the expense of some of their autonomy.

The League of Nations was followed by more robust and institutionalized bodies, most notably the UN. The UN Charter enshrines the principles of sovereign equality and non-intervention, yet it includes provisions (especially Chapter VII) that allow intervention in cases of threats to peace.

Alongside the UN, the creation of organizations like the International Monetary Fund (“IMF”), the World Trade Organization (“WTO”), and later, the EU has further illustrated how states increasingly operate within frameworks of shared governance.

#### *4.3.1. Are Global Governance Institutions Legitimate?*

Global governance challenges the Westphalian model because it requires states to cede elements of their sovereignty to international institutions. As these institutions increasingly make decisions that affect domestic affairs, questions arise about the basis on which they are legitimized to exercise authority beyond the nation-state.

While global governance can bring stability, efficiency, and collective problem-solving, it comes with a cost to national autonomy. States that join supranational institutions voluntarily accept that certain policy areas, such as trade, environmental regulation, or human rights may be subject to decisions made beyond their borders.

This trade-off is functional in practice but marks a significant departure from the Westphalian model, in which sovereignty was both indivisible and territorially bound.

In the context of the EU, for example, member states are legally obligated to implement regulations and directives, even when these override national preferences. The result is a form of layered sovereignty, in which state authority is not abolished but redefined through cooperation and interdependence.

Scholars have debated the conditions under which supranational bodies can be considered legitimate sources of global rulemaking. According to Robert Keohane (2011), legitimacy can be understood in two ways: normatively, as the right to rule based on ethical or political justification; and sociologically, as the widespread belief that an institution has that right. In his view, for a supranational institution to be legitimate, it must meet six key criteria: minimal moral acceptability, inclusiveness, epistemic quality, accountability, compatibility with democratic governance, and comparative benefit.

One of the main critiques of supranational governance is that efficiency does not equal legitimacy. Many global institutions, including the IMF and the WTO, derive authority from their technical expertise and problem-solving capacity, what some scholars refer to as “functional” or “consequential” legitimacy. Suchman (1995) identifies consequential legitimacy as a form of moral legitimacy grounded in what organizations accomplish. In other words, institutions must be perceived by their communities as serving a useful and beneficial function (Barnett & Coleman, 2005).

However, functional legitimacy often comes at the expense of democratic legitimacy, since these institutions are not directly accountable to the citizens they affect. This becomes problematic when unpopular policies, such as trade liberalization, are implemented without significant national input. According to Keohane’s criteria, legitimacy requires more than competence; it demands accountability, transparency, and inclusiveness. Without these, institutions risk being perceived as elitist or technocratic, thereby undermining their authority.

These legitimacy concerns have sparked resistance across many countries, particularly within the EU. The rise of Eurosceptic parties, such as *Alternative für Deutschland* in Germany and *Fratelli d’Italia* in Italy, reflects growing unease with the perceived erosion of national sovereignty. When supranational institutions fail to meet

Keohane's standards of legitimacy, they become vulnerable to political contestation and backlash, as seen most clearly in the case of Brexit.

#### *4.3.2. Brexit and Euroscepticism: What's Next?*

The EU is widely considered a sui generis organization, unique in structure and purpose because it does not resemble other international institutions (Klabbers, 2016). Unlike typical regional bodies, the EU has developed a supranational framework that includes institutions with real decision-making power, such as the European Commission, the European Parliament, and the European Court of Justice.

The EU originated as an effort to reintegrate Europe after World War II. In 1951, six countries - France, Germany, Italy, Belgium, the Netherlands, and Luxembourg - established the European Coal and Steel Community ("**ECSC**") to jointly manage resources needed for reconstruction. This cooperation deepened with the Treaties of Rome (1957), which created the European Economic Community ("**ECC**") and aimed to eliminate trade barriers through a common market. The integration process culminated in the Maastricht Treaty (1992), which established the EU as we know it today and introduced common citizenship and a single currency.

Over time, the EU has grown to 27 member states (after Great Britain's exit) and expanded its scope across areas including trade, climate change, and justice. This integration, however, has come at the cost of national sovereignty. Member states have voluntarily transferred numerous competencies to the EU, challenging the Westphalian model of indivisible state authority.

For example, Article 3 of the Treaty on the Functioning of the European Union ("**TFEU**") grants the Union exclusive competence in areas such as the customs union, competition rules for the internal market, monetary policy for eurozone members, and common commercial policy. In these domains, "only the Union may legislate and adopt legally binding acts", with no room for unilateral national action.

In addition to exclusive competencies, the EU legal order is governed by the principle of the primacy of the Union law, meaning that in cases of conflict, EU law prevails over national law (EUR-Lex, 2025). This principle is not explicitly stated in the treaties but has been firmly established through jurisprudence. In Case Costa v ENEL<sup>15</sup>, the European Court of Justice ruled that:

“It follows from all these observations that the law stemming from the Treaty, an independent source of law, could not, because of its special and original nature, be overridden by domestic legal provisions, however framed, without being deprived of its character as Community law and without the legal basis of the Community itself being called into question” (Costa v ENEL, 1964).

This framework captures how sovereignty is reconfigured within the EU. Member states do not lose their authority entirely but restructure it across multiple levels of governance. The EU is a model of both shared and pooled sovereignty, where decision-making competencies are distributed between national governments and supranational institutions.

The United Kingdom’s decision to leave the EU, commonly known as Brexit, was arguably a direct reaction to the perceived loss of sovereignty within the EU. Many citizens felt that key areas of national decision-making, such as immigration control and trade policy, had been compromised by EU membership. In fact, the referendum campaign centered around the slogan “Take Back Control”, which expressed the desire to reclaim authority from supranational institutions.

On 23 June 2016, the UK held a referendum in which 51.9% voted to leave the EU, while 48.1% voted to remain (Walker, 2021). This marked the beginning of a complex political and legal process that lasted until 2020 when the UK formally exited both the EU and its single market and customs union.

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<sup>15</sup> See European Court of Justice. (1964, July 15). *Flaminio Costa v. E.N.E.L.*, Case 6/64, Judgment of the Court. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:61964CJ0006>

Brexit represented a major crisis for the EU, both because it was the first time a member state sought to withdraw from the Union and because the UK was a large member whose departure had significant political and economic implications (Nugent, 2018). It raised questions about the future of European integration and whether deep pooling of sovereignty was politically sustainable across all member states.

Moreover, Brexit revived and amplified Eurosceptic currents across the continent. Euroscepticism refers to a political doctrine or movement motivated by hostility to European political integration (Morgan, 2005) and skepticism toward the legitimacy of EU institutions. In the wake of Brexit, leaders across Europe began to question not just specific EU policies, but the very idea of supranational governance.

In short, the EU challenges the Westphalian idea of absolute state sovereignty by creating a system of shared decision-making. Brexit and the rise of Euroscepticism show that this model is still controversial. Despite growing interdependence, many states remain attached to traditional ideas of national control.

#### 4.4. Non-State Actors and the End of State-Centrism

This section explores how the Westphalian model is challenged by actors that do not meet the traditional definition of a sovereign state yet nonetheless seek or exercise political legitimacy in the international system.

To understand what constitutes a non-state entity, it is first necessary to define what qualifies as a state. According to Max Weber (1919), a state is “a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory”. This definition emphasized the importance of internal legitimacy and effective authority exercised over a defined geographical area.

From an international legal perspective, the Montevideo Convention (1933) set out four criteria for statehood in Article 1: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter relations with the other states. These criteria form the basis of the declarative theory of statehood, which holds that

an entity qualifies as a state if it objectively meets these criteria, regardless of whether other states choose to recognize it.

In contrast, Hans Kelsen (1941) advanced what is known as the constitutive theory, which asserts that an entity only becomes a state in legal terms when it is recognized as such by other states. According to his view, international recognition is essential to confer legal personality and statehood, even if it fulfills all other substantive criteria.

Together, these definitions and theories provide a framework for distinguishing between state and non-state entities. An entity that lacks one or more of these essential elements – such as effective control, territorial integrity, or international recognition – falls outside of the definition of statehood and is thus classified as a non-state actor.

#### *4.4.1. Beyond the State: Non-State Actors?*

In the traditional Westphalian system, only sovereign states were considered full subjects of international law, with a few exceptions such as the Holy See or the Order of Malta (Wagner, 2009). However, the state-centric nature of the international system is being contested by a diverse set of actors that fall outside the legal definition of “state” yet operate with varying degrees of political authority.

These agents, commonly known as non-state actors, expose the limitations of the Westphalian order. In political science, non-state actors are defined as influential organizations that are not controlled by or affiliated with a recognized government (Greene, 2025). They encompass a wide range of entities, including corporations, non-government organizations (“**NGOs**”), and armed groups such as paramilitary and terrorist organizations.

As discussed previously, international organizations and NGOs, such as the UN, the WTO, Amnesty International, and Greenpeace play significant roles in global governance, despite lacking formal sovereign status. At the same time, armed non-



state groups, like ISIS during its territorial peak, have asserted state-like authority in ways that challenge the legitimacy of the international system.

A particularly complex category within the broader field of non-state actors is that of quasi-states, entities that possess many of the attributes of statehood but lack full international recognition. According to Kolstø (2006), a quasi-state is a political entity that: (1) controls most of the territory it claims, (2) has sought but not achieved recognition as an independent state, and (3) has persisted in this status for at least two years. Cases such as Taiwan and Kosovo fit this profile: they claim sovereign status and maintain defined territory and institutions of governance but remain partially recognized due to geopolitical disputes.

Despite their diversity, all these non-state actors share a common feature: they operate outside the formal structure of state recognition while exercising degrees of governance, control, or global influence. As such, they challenge the traditional Westphalian model, which is premised on mutually recognized, territorially defined states.

#### *4.4.2. The Case of Taiwan: Sovereignty without Recognition?*

Taiwan - officially “the Republic of China” (“**ROC**”) - is an island in the Pacific Ocean, located off the southeast coast of mainland China. Following the end of the Chinese Civil War in 1949, the ROC government retreated to Taiwan, while the Communist Party established the People’s Republic of China (“**PRC**”) on the mainland (Parrish, 2025). Since then, Taiwan has functioned as an autonomous political entity, although the PRC considers it a breakaway province.

Taiwan exercises functional sovereignty, as it meets all the conditions of statehood outlined in the Montevideo Convention. It has a permanent population, a defined territory, an effective government, and the capacity to engage in foreign relations. Taiwan is also a consolidated democracy. It holds regular elections, most recently on January 13, 2024, when William Lai of the Democratic Progressive Party was elected president (Hart et al., 2024).

Taiwan actively participates in the international system, despite its limited recognition. It has full membership of 45 intergovernmental organizations, including the WTO, Asia-Pacific Economic Cooperation, the World Organization for Animal Health, and the Central American Bank for Economic Integration (Taiwan Government, 2024). However, due to Beijing's "One China" policy, most countries do not maintain official diplomatic relations with Taiwan.

As of 2025, fewer than 15 countries maintain formal diplomatic ties with Taiwan (Ministry of Foreign Affairs Republic of China, 2025). Still, many states sustain unofficial relations through alternative mechanisms, such as the American Institute in Taiwan, a private corporation established after the United States shifted recognition to the PRC in 1979 (American Institute in Taiwan, 2022).

Taiwan formerly held the Chinese seat on the UN Security Council but lost it to the PRC in 1971 under UN General Assembly Resolution 2758 and is no longer a member of the UN. The resolution declared:

"The General Assembly,  
[...]

Decides to restore all its rights to the People's Republic of China and to recognize the representatives of its Government as the only legitimate representatives of China to the United Nations, and to expel forthwith the representatives of Chiang Kai-shek from the place they unlawfully occupy in the United Nations and in all the organizations related to it" (UN General Assembly Resolution 2758, 1971).

Today, Taiwan is the largest economy and largest population excluded from UN membership (Parrish, 2025). Its case fits Kolstø's (2006) definition of a quasi-state: Taiwan controls its territory, has repeatedly sought international recognition, and has maintained this ambiguous status for decades.

Taiwan's exclusion from the UN and other international forums highlights the tension between legal recognition and political realities. Beijing's threats to forceful reunification create a security dilemma that limits Taiwan's diplomatic space (Desai,

2025). While it operates as a de facto sovereign state, Taiwan must navigate its foreign policy cautiously to avoid provoking the PCR.

Taiwan and other quasi-states question the Westphalian assumption that sovereignty and international recognition go hand in hand. It shows that de facto sovereignty may exist without legal status or widespread recognition. As such, it raises serious questions about the criteria by which international legitimacy is granted in the contemporary system, and whether recognition is still a neutral legal process or a deeply political one.

## 5. Hybrid Sovereignty: Between Westphalia and Post-Westphalia

As this research has shown, the legacy of Westphalia is still present in today's international system. However, in recent years, the Westphalian model of statehood has faced challenges that have brought about change. These challenges have not replaced the model entirely but rather reshaped how its core principles (especially sovereignty) are interpreted and applied.

Building on the previous sections, this part explores how the contemporary international system is best understood as a hybrid of Westphalian and post-Westphalian elements. Indeed, there has been continuity and transformation of its ideals at the same time.

### 5.1. Selective Sovereignty: The Strategic Use of Westphalian Principles

In the contemporary international system, Westphalian sovereignty is less a fixed standard than a strategic resource. States selectively invoke it when it suits their interests, to defend their autonomy, or to resist interference. Ironically, most of those states also participate in post-Westphalian regimes (such as international organizations and trade blocks), that compromise those same principles.

In his book "Sovereignty: Organized Hypocrisy", Dr. Krasner (1999) argues that states often violate Westphalian sovereignty in practice, while continuing to invoke it rhetorically. This disconnect reflects what he calls "organized hypocrisy", where the principle of non-intervention is publicly upheld but selectively ignored when political interests demand it. As Krasner notes:

"Westphalian norms have been decoupled from behavior. While the principle of nonintervention has been widely accepted, it has often been challenged by alternatives such as human rights. Many international documents, including the

Charter of the United Nations and the Helsinki Final Act, have endorsed both” (Krasner, 1999).

Even those states that embrace supranationalism often fall back on Westphalian principles when defending core interests. Examples abound. China has insisted on non-interference when it comes to Taiwan or Hong Kong but actively engages in global trade and is a prominent member of institutions such as the WTO and the UN Security Council.

Similarly, Russia has invoked the rhetoric of sovereignty to justify its interventions in Crimea and Eastern Ukraine, claiming it was defending Russian-speaking populations. In Syria, the Assad regime used sovereignty to block humanitarian access and resist external involvement, even amid the civil war.

These cases show how sovereignty is deployed as a tactical instrument, instead of a consistent legal principle. Whether to legitimize intervention or prevent it, sovereignty now functions discursively, as a flexible narrative used to justify state behavior.

## 5.2. Layered Sovereignty: Multilevel Governance

Another feature of today’s international system is the concept of layered sovereignty. Rather than existing solely at the national level, authority is now distributed across multiple, overlapping spheres: local, regional, and international. Globalization has not eliminated sovereignty but has restructured it across multiple levels.

Spain offers a clear example. While it maintains a central government, substantial powers are devolved to its Autonomous Communities, showing internal decentralization. At the regional level, Spain’s EU membership means it transfers significant authority to supranational institutions, particularly in areas such as trade, environmental regulation, and human rights. At the global level, Spain participates in multilateral bodies like the UN and WTO, further integrating into a broader international framework.

This multi-level arrangement illustrates that modern sovereignty does not operate as a singular, territorially bound authority. Instead, it functions as a layered system of governance, with power distributed across domestic, regional, and international levels. Spain provides a clear example, but most states today navigate similar structures. This marks a clear departure from the Westphalian assumption of indivisible, territorially confined state control.

### 5.3. Emergence of Post-Westphalian Norms: Uneven and Contested

There have been some clear moves beyond Westphalian principles. One example is the emergence of the Responsibility to Protect (“**R2P**”), a norm that permits intervention in cases of genocide, war crimes, ethnic cleansing, and crimes against humanity. Codified in the 2005 World Summit, R2P weakens the Westphalian principle of non-intervention in extreme humanitarian circumstances:

“Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability” (World Summit, 2005).

Likewise, international criminal law challenges state sovereignty by holding individuals and states accountable for international crimes. The Rome Statute and the establishment of the International Criminal Court (“**ICC**”) are proof that certain norms transcend borders:

“An International Criminal Court (“the Court”) is hereby established. It shall be a permanent institution and shall have the power to exercise its jurisdiction over persons for the most serious crimes of international concern, as referred to in this Statute, and shall be complementary to national criminal jurisdictions. The

jurisdiction and functioning of the Court shall be governed by the provisions of this Statute” (Rome Statute, 1998).

A similar trend is visible in the supranational regulation of global commons. Climate governance, in particular, has become a key arena where state sovereignty is balanced against collective global responsibility. For example, the United Nations Framework Convention on Climate Change (“**UNFCCC**”) was established to prevent dangerous human interference with the climate system (UNFCCC, 2022). Its main decision-making body, the Conference of the Parties (“**COP**”), meets annually to assess progress and set new targets. However, these efforts have not been without controversy. The most recent summit (COP29) was held in Azerbaijan, a major fossil producer country, and drew criticism for contradictions between host-country interests and climate goals.

Inconsistencies are evident in the application of other post-Westphalian norms, such as the R2P, a principle that has been invoked in some cases and bluntly forgotten in others. Military intervention from NATO in Libya in 2011 marked the first implementation of R2P (Thakur, 2011), yet the principle was not invoked in Syria, despite the government violence and humanitarian crises. This uneven application reveals the fragility of R2P as a global norm and the continued influence of Westphalian sovereignty, especially when major powers are unwilling to act.

The effectiveness of the ICC has also been contested. The Court has been criticized for selective prosecutions and limited enforcement capacity. For example, although it issued an arrest warrant for Vladimir Putin on 17 March 2023 (ICC, 2023), he has not been brought to justice. Just another reminder of the structural limits of enforcement in a system still shaped by state sovereignty.

In sum, post-Westphalian norms have undoubtedly emerged. Yet they remain uneven, contested, and politically fragile at times. Rather than replacing Westphalian principles outright, these norms coexist with them, producing a hybrid international order marked by both continuity and change.

## 6. Conclusions

This thesis set out to explore whether the Westphalian model remains relevant in contemporary politics or whether it has been surpassed by new forms of political organization. Rooted in the 1648 Peace of Westphalia, the model introduced the principles of territorial integrity, non-intervention, and legal equality between states. These ideas are still at the core of global politics today.

However, the model has come under increasing pressure. Global issues such as climate change, global trade, and migration transcend national borders and can no longer be addressed by states acting alone. At the same time, secessionist movements, identity crises, and the growing influence of non-state actors have further challenged the Westphalian model, particularly the primacy of state sovereignty and territorial control.

In response to these pressures, new mechanisms and norms have emerged that challenge traditional notions of state boundaries. The development of supranational institutions and frameworks such as the ICJ and the R2P reflects a shift toward collective responsibility. Yet, these post-Westphalian norms often depend on state cooperation and are enforced inconsistently. Their selective application and vulnerability to political interests show the fragility of these norms in practice.

Rather than marking a complete break with the past, these developments point to a transformed understanding of sovereignty. The international system now operates through a hybrid structure, where states continue to claim sovereignty while engaging in multilevel governance. Sovereignty is no longer fixed or indivisible; it is exercised simultaneously at domestic, regional, and global levels.

Ultimately, this research finds that the Westphalian model has not been replaced but redefined. Its foundational principles remain influential, even as they are adapted to meet new realities. The result is a hybrid system in which traditional and post-Westphalian norms coexist. Understanding this evolving framework is essential for grasping the structure of contemporary politics and for navigating its future.



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