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Relations

Final Thesis

Westphalia Through the Looking Glass

A Reconstruction of the Westphalia Peace Treaties and their Manipulation in
the field of International Relations

Supervisor

Ch. Prof. Delogu Giulia

Assistant supervisor

Ch. Prof. Trampus Antonio

Graduand

Silvia Dal Soglio

Matricolation

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General Introduction

There are few years as loved as 1648 in the field of international relations. Considered the birth of the concept of state sovereignty, the 1648 Peace of Westphalia is commonly believed to be one of the most pivotal moments in the history of international relations and the year zero of the modern international system, with legal scholar Leo Gross describing it as a “majestic portal which leads from the old into the new world¹”.

This narrative, however, is historically inaccurate and numerous studies have proven that the vision of Westphalia as the birth of "the normative structure [...] of the modern world order²" is just a myth. The aim of this research is therefore that of continuing the work of those academics who have criticised the unquestioned acceptance of Westphalia as the starting point of the modern international society by offering a slightly different analysis of the events and of their manipulation. Rather than trying to find answers to the daunting questions that the removal of Westphalia as the starting point of international relations poses (such as "which date or event can then be seen as the beginning of the modern international society?"), this paper will (first) analyse the historical background, content and language of the Westphalian treaties in order to prove that these agreements and their consequences cannot be considered as a turning point of international relations; (second) trace a historical account how their misinterpretation has come to be accepted as true in the last 370 years; (third) provide a partial explanation to why the majority of the academics still accept the myth as truth. Through the outlining of the history of the Westphalian myth and how it evolved in time, the research will therefore argue that the false narrative of the 1648 events

¹ Gross, Leo. *The peace of Westphalia, 1648–1948*. American Journal of International Law 42.1 (1948): 28.

² Baylis, John. *The globalization of world politics: An introduction to international relations*. Oxford university press, Oxford, 2020.

can be divided into two periods, one dating from the 18th century to the 1960s and based on a Eurocentric vision of the events, and a second one that began in the 1960s and reached its apogee in the 1970s that is based on a presentist attitude. By following this red thread, this part of the research will then unveil how one of the most powerful myths of international relations was turned into an irrefutable truth that is still nowadays strongly upheld by most institutions around the world, and why the majority of experts and scholars still holds the myth as true.

The paper is divided into six chapters. The first part, which regards the Historical Westphalia, reconstructs the events of the Thirty Years' War and the diplomatic negotiations that led to the signing of the Munster and Osnabruck treaty, so as to provide a clear understanding of not only the intentions of the nations involved in the war, but also of the intentions of the ambassadors that led the negotiating process during the four years of congresses that ended with the signing of the treaties. The first chapter provides a general overview of the historical stages of the war, with the aim of presenting a broad political understanding of the events from 1618 to 1648, as well as the interests of the states involved, in order to prove how the war did not simply revolve around the concepts of religion or sovereignty. The second chapter organically follows the first and retraces the steps that led to the negotiations of the treaties, namely the signing of the Treaty of Hamburg in 1641, the starting of the talks in 1644, the various interests at play, and the agreements finally reached in 1648. Once again, the reconstruction of this political process shows how the interests at the core of each delegation were practical and mostly political, rather than religious (or independentist in the case of the German Estates).

The third chapter then answers the question whether Westphalia can really be considered as the birthmark of the modern international society. By analysis the three main argumentations made in favour of this view, that is that 1648 saw the creation of the concepts of sovereignty, balance of

power and non-interference, I analyse the content of the treaties to show how these modern norms were not included in the texts of the two treaties nor in the intentions of the ambassadors and negotiators behind them.

The second part of the research, instead, deals with the Mythical Westphalia and is dedicated to recreate a (partial) history of the myth and its formation, starting with the first mentions of the 1648 treaties as holding more meaning than their actual intent in Chapter 4. The chapter then moves on to trace the first citations of the peace in the 18th century, explain the adoption of the date by legal positivism in the 19th century, and the change in analysis in the early 20th century. Chapter 5 presents how the myth was transformed in the second half of century and how it reached the apogee of its presentist analysis starting from the 1970s. The chapter concludes this analysis with the reconstruction of the critical wave of scholars who wrote to debunk the myth of Westphalia in the late 1990s-early 2000s and the silence of the other scholars that followed their publications.

The last chapter of this research finally tries to close the circle and provide a (partial) explanation to why academics keep accepting the false narrative of Westphalia as truthful even in the 21st century. The chapter argues that scholars are not able to verify all the sources they use due to time constraints; that due to a selection-task attitude they tend to subconsciously accept what they perceive as intuitively correct; and, finally, that they may be completely oblivious to the problem due to a deeply radicalised Euro-centric perspective of the discipline that led them to naturalise the myth of Westphalia.

This research, therefore, will provide an addition to the criticism of the myth of Westphalia by attempting to reconstruct a more complete history of the narrative of the 1648 events and by offering some partial insights into why the academic world still accepts the myth.

PART I – THE HISTORICAL WESTPHALIA

Chapter 1 - The Thirty Years War

“In this year God carried out the threat made to us in Deuteronomy 28, 21, 22, 26, 27 and 35. May he in his mercy take pity on us and make us happy again, after he has tormented us for so long and after we have so long had to suffer misfortune. May he mercifully turn all evil away from us and give us generously of the good. Amen. Amen. Amen. Oh Lord Jesus, Amen.³”

War, inflation, hunger and plague. One of the longest, most well-known and most lethal wars that Europe ever saw, the Thirty Years' War started in 1618 and protracted for over 30 years, embracing a number of actors, places and attempted agreements rarely seen before and an amount of destruction and death that has yet no rivals in modern history. Started with the (in)famous Defenestration of Prague and ended with the even more (in)famous Peace of Westphalia, the events that happened during the course of these thirty years are often described as a bridge from one era to the other, with the final Peace marking the passage from a Medieval Europe to a modern European international society.

The scholars' agreement, however, ends here. In fact, while most academics do acknowledge that a Thirty Years' War happened, no matter how fragmented it may be, some researchers argue that since most of it was fought on German soil, this was a *de facto* German War that had dramatic consequences for the region⁴. They argue that this war is still deeply rooted in the German collective memory, to the extent that the German writer Laube stated that the Peace of Westphalia “poisoned the heart and soul of the German Reich. It poisoned the Emperor; it poisoned the

³ Mortimer, Geoff. *Eyewitness Accounts of the Thirty Years War 1618-48*. Springer, New York, 2002: 177. This extract was part of concluding entry for 1632 by the German pastor Renner, one of the many witnesses of the consequences of the 30 Years War. Similarly to those of many other religious witnesses, the war was interpreted as God's punishment.

⁴ Whaley, Joachim. *Germany and the Holy Roman Empire: Volume I: Maximilian I to the Peace of Westphalia, 1493-1648*. OUP Oxford, Oxford, 2011: 563.

nation”⁵. Other scholars, instead, focus on the role France played in the conflict or in the shift of power inside the Holy Roman Empire; while a minority argues that the various wars fought during this period cannot be traced to a single denominator and that therefore the Thirty Years’ War was a theoretical construct rather than an actual event.

1.1.2 The Thirty Years’ War: an Imperial War or a Religious One?

The stance behind the research is that the Thirty Years’ War was a conflict mostly centred around the Holy Roman Empire. In fact, unless this fact is fully acknowledged, linking together the events of those decades and understanding the meaning of the peace treaties signed in 1648 might prove to be quite difficult: the war might be seen as a full-on “European civil war”⁶ (with the only major European state not intervening being Russia), but its protraction for over three decades can be explained only by the fact that the various individual conflicts became deeply intertwined with the Empire’s inner politics. On top of this, the staggering cost of the war and the strict position taken by Emperor Ferdinand II led many Estates and the Empire itself on the brink of bankruptcy numerous times, exhausting the population and leading to even more internal revolts.

The pre-existing internal and external political tensions already present in Europe before the war were further accelerated by the religious component of the conflict. It is important to stress, however, that the war was not merely a religious one: although faith was a key component of the Thirty Years’ War, the various Estates and princes also had a political agenda: in fact, most of them were trying to gain more independence or trying to ensure themselves the right to wage war without needing the approval of the Emperor. The secondary importance of religion during the

⁵ Whaley, Joachim. *Germany and the Holy Roman Empire: Volume II: The Peace of Westphalia to the Dissolution of the Reich, 1648-1806. Vol. 2:* 564.

⁶ Asch, Ronald. *The Thirty Years War: the Holy Roman Empire and Europe, 1618-48.* Macmillan Publishers Limited, New York, 1997/1997: 37.

conflict was explained by historian Wilson, who wrote that “most contemporary observers spoke of imperial, Bavarian, Swedish, or Bohemian troops, not Catholic or Protestant⁷”. Religious militants were therefore only marginal to the conflict, even though their actions, most notably the Defenestration of Prague and the Palatine’s choice of joining the rebellion, had very long-lasting effects.

1.1.3 The First Tensions in the Empire: The Peace of Augsburg and its Consequences

Until 1618, the religious status inside the Empire was regulated by the Peace of Augsburg, an agreement signed in 1555 by both Catholics and Protestants that had ensured until that moment (with the exception of few episodes) the longest period of peace in the history of modern Germany⁸. The 1555 Peace was a complex document that tried to tie together the medieval belief of the unity of law and faith with the fact that two European religious factions both argued to represent the “right” religion. The outcome of the peace was the acceptance of both faiths in the Empire and the agreement that while the Lutherans could keep the Catholic assets acquired before 1552, any ruler of the Catholic territories who had converted to Protestantism after 1555 was to step down from his political role and be replaced by a Catholic nobleman. Lastly, the peace assured that a seventh of the Holy Roman Empire would have always been reserved to Catholic rulers.

This arrangement, however, soon led to a general belief among Protestants that although their religion had now been officially recognised, the political power inside the Empire was still solely in the hands of the Catholics. In an attempt to unify and strengthen the Protestant faction inside Empire, Frederick IV, Elector Palatine and member of the Wittelsbach family, the second most

⁷ Wilson, Peter H. *Europe's Tragedy: A New History of the Thirty Years War*. Penguin UK, London, 2009: 28.

⁸ *Ibid.*: 30

powerful family in the Empire after the Hapsburgs, forged a military alliance among Protestant princes in 1608, which he named the Union. It took only a year for a Catholic response to arrive, and in 1609 the Archduke of Bavaria, Maximilian, replied to this perceived provocation by funding the Catholic League. Most princes and noblemen decided to remain neutral and refused to adhere to neither sides; but the creation of these two factions was a first forewarning that tensions were starting to raise within the Empire. The first signs of a possible internal crisis came with the election of the Catholic Matthias as the new Emperor of the Holy Roman Empire in 1612. Matthias had not inherited an easy political situation: the international standing of the Empire was decreasing and the internal division between the two religions kept creating civil and political unrest. The Emperor, however, soon proved not to be keen on public life by leaving most of his public affairs in the hands of Bishop Klesl⁹. Klesl tried repeatedly to solve the divisions among Protestants and Catholics so as to revive the almost paralysed imperial Diet, which had found itself debilitated by the division since 1608, and soon came up with a new solution to resolve the division once for all, after having modified a proposal made in 1603 by the Palatinate elector. This solution, according to Klesl, was the creation of a ‘composition’, a term derived from the Latin term *amicabilis compositio*. His plan saw the creation of a bi-partisan committee¹⁰ through which both Catholics and Protestants would solve their long-standing disagreements, creating in this way a sustainable and practical environment for the working of the Empire. His proposal, however, did not receive much support since neither the Catholics nor the Protestants trusted Klesl’s offer.

⁹ Wilson, Peter H. *Europe's Tragedy: A New History of the Thirty Years War*: 276.

¹⁰Ibid.: 278.

1.1.4 The Problem of the Succession to the Imperial Thorne

Interestingly, during the second decade of the 17th century the most pressing debate within the Empire was not on the religious division, but on the lack of an heir to the throne of Emperor Matthias. This meant that no matter how often Klesl argued that the Imperial succession was an issue that could be solved only after the ‘composition’ had brought peace to the Empire¹¹, all eyes were on the Emperor and his possible heirs. The main issue was that Matthias’s wife, the Archduchess Anna of Austria, had not given birth to offspring and the Emperor himself was quite advanced in his age. It seemed that the Empire was once again back on the brink of a new succession unrest only after few years of peace and that the decision of electing Matthias as Emperor since his brother Rudolph had no offspring and had not indicated an heir to the throne had not solved the problem but only postponed it.

Now, the fact that Matthias had no living children did not mean he did not have any living siblings. His grandfather, Ferdinand I, had three sons, who then went on to have children themselves. Of the eleven grandchildren, three had already perished and had no legitimate offspring, while seven were still living. Three of these seven possible candidates were of similar age to that of Matthias and therefore not fit for the throne as too elderly, leaving as possible candidates only Ferdinand of Styria and his three younger brothers¹². It followed quite logically that Ferdinand was on paper the perfect candidate for the throne, especially since he had been adopted by Matthias in 1615, but his ascent was strongly opposed due to his religious views¹³. A fervent Catholic, Ferdinand was known for his strict religious upbringing, his counter-reformation views and his efforts to limit the expanse

¹¹ Mortimer, Geoff. *The origins of the Thirty Years War and the Revolt in Bohemia, 1618*: 126.

¹² *Ibid.*

¹³ Bireley, Robert. *Ferdinand II, Counter-Reformation Emperor, 1578–1637*. Cambridge University Press, Cambridge, 2014: 76.

of Protestantism within the Empire¹⁴, as well as his belief that territorial and religious unity could not be divided. It was at this point that Philip III, King of Spain, started to research whether his claim to the throne could be legitimate based on the fact that his mother, Anna of Austria, daughter of Charles V, had never renounced her rights¹⁵. In Germany, at the same time, rumors were starting to spread of a possible entrance of Archduke Maximilian of Bavaria in the run for the throne of the Empire.

In an attempt to end all uncertainties, Matthias repeatedly advocated for the appointment of Ferdinand as his legitimate heir; but the Electors did not agree to meeting to discuss it. As a consequence, Matthias started to ensure that Ferdinand would be only legal the successor of his lands, so that his claim to become Emperor could be easier and more legitimate than the other candidates. The Imperial plan began with Ferdinand's proclamation as heir to the throne of Bohemia in 1617 and ended with the election of Ferdinand as the heir to the Hungarian Estates in 1618.

¹⁴ Croxton, Derek. *Westphalia: the last Christian Peace*. Springer, New York, 2013: 35.

¹⁵ Wilson, Peter H. *Europe's Tragedy: A New History of the Thirty Years War*: 292.

1.2. 1618-1621: The Bohemian Crisis

The acceptance of Ferdinand as the heir to the Kingdom of Bohemia in 1617 came surprisingly easy, but this was mostly due to the fact that the title was usually inherited rather than obtained through elections. It is not sure whether Ferdinand would have been accepted as successor otherwise: Bohemia was the largest part of the Empire that was not of Germanic ethnicity and its population had been mostly Protestant for the last 50 years¹⁶.

Although Ferdinand was accepted as the heir to Bohemia, tensions soon started to rise in the region when in 1617 two Bohemian Catholic officials halted the construction of two Protestant churches, going against the freedom of religion that had been granted with the Letter of Majesty of 1609¹⁷. Count Thorn, one of the only two Bohemian delegates at the Diet of 1617 that opposed the acceptance of Ferdinand as Matthias' heir to the Bohemian throne, became the head of the opposition to the Empire. A special Protestant assembly was summoned in 1618 to discuss the matter and although not many representatives of Protestant cities conveyed, those who did agreed in sending a petition to then still Emperor Matthias and in meeting once again on May, 21 to discuss his reply. What the Protestant activists did not expect was that Matthias' (and therefore Klesl's) response would be a sharp order to dissemble the assembly. The harsh tone of the letter angered the Protestant leaders even more, leading to the decision to push forward with the second meeting nonetheless so as to debate the 'secret tricks and practices'¹⁸ of the Catholics in the Empire. Soon after, a second Imperial letter was sent, this time written less harshly, that stated once again that the second meeting could not take place. The conference was nonetheless conveyed on May,

¹⁶ Croxton, Derek. *Westphalia: the last Christian peace*: 35.

¹⁷The Letter of Majesty was a Imperial document signed by then Emperor Rudolph II that granted religious tolerance in the Estates of Bohemia.

¹⁸ Wilson, Peter H. *Europe's Tragedy: A New History of the Thirty Years War*: 304.

21 and the Lord Regents orders to disband it were not considered. It was at this point that Count Thurn is believed to have stated that it was time to ‘throw them out of the window, as is customary¹⁹’. He asked to meet the four Catholic Lord Regents the following day to discuss the state of affairs, with real reason behind this meeting being that of finding out whether the harsh tone of the Emperor in his first letter had been their doing²⁰. On May, 23 the Count and his following met the Catholic leaders in the Hradčany Castle. Whether the defenestration was actually planned or not is still being debated and it is still mostly unknown how the meeting exactly went²¹, but eventually two Lord Regents were indicted innocent and incapable of being behind the harsh reply from the Emperor, and Count Vilem Slavata of Chlum and Count Jaroslav Bořita of Martinice were found guilty. The two Lord Regents ultimately admitted their responsibility, thinking they would be simply arrested, but the angered mob and the furious leaders opted instead for their defenestration, along with their secretary Philip Fabricius. The act was an obvious reference to the 1419 defenestration of Prague, when a judge, the burgomaster and seven councillors had been thrown outside the window by the Hussite insurrection. Miraculously (the Catholics would later claim it was thanks to a divine intervention), all the three defenestrated men survived the fall and run to safety.

It is important to note that the Bohemian aristocrats who had carried out this insurrection represented a small, extremist minority of the Protestant Union and they themselves were unaware that their actions would have started a chain reaction which would be stopped only 30 years later. Two days after the event, these Bohemian Protestant noblemen elected twelve Directors to replace the Catholic Lord Regents. Apart from this, their relations with the Empire remained neutral and

¹⁹ Wilson, Peter H. *Europe's Tragedy: A New History of the Thirty Years War*: 304.

²⁰ Mortimer, Geoff. *The origins of the Thirty Years War and the Revolt in Bohemia, 1618*: 138.

²¹ *Ibid.*: 157.

no conflict followed their acts. It was only with the death of Emperor Matthias in 1619 and the election of Ferdinand II as Emperor that the Bohemian estate once again rebelled and refused to recognise Ferdinand as their king, electing instead Frederic V, the Elector of the Palatine and a fervent Calvinist who truly believed in the cause, as King of Bohemia. Ferdinand was now Emperor, and this meant that the conflict between the two parties was now unavoidable. A purely political and religious issue soon became a military one and soon enough external forces started to interfere. Silesia sent military help to Bohemia in 1618, under the condition it would be used only for defensive purposes²², the Moravian Estates started to prepare in case of war, and Transylvania sent help to Frederic V. The military conflict seemed at first to favour the Protestants: by 1619, Count Thurn and his rebellious troops managed to enter Austria and gain Vienna. However, as soon as the Spanish troops came to the aide the Imperial soldiers, Count Thurn and his allies realised they were warring on borrowed time: they soon proved unable to neither feed nor pay their troops and the various pestilences that were affecting Europe that year meant that they saw a substantial decline in the rows of their soldiers²³. By 1609, the Protestant Union had declared its neutrality, Saxony had backed the Emperor (in return for the territories of Lusatia) and the Imperial army had invaded Bohemia. Frederick V fled Bohemia and the rebels virtually lost all of their ground and support.

²²Mortimer, Geoff. *The origins of the Thirty Years War and the Revolt in Bohemia, 1618*: 162.

²³ *Ibid.*: 164.

1.3. 1621-1624: The Palatinate Phase

Frederick V was soon labelled the 'winter king' due to the shortness of his ruling in Bohemia²⁴. Yet, he refused to accept his defeat and stated that he would recognise Ferdinand II as Emperor only if he formally acknowledged the Confederation, ensured equal religious freedom in the Empire and refunded the Palatine's war expenses²⁵. Ferdinand reply was putting Frederick under imperial ban, along with some of his supporters. The Protestant King of Bohemia, however, kept trying to find support among the other Protestant Estates and by 1621 a conference was held in Segeberg, Holstein, for the representatives of the Protestant Union (by that time almost collapsed), the Dutch, and the Danish kingdom to discuss the issue. The outcome of this meeting was not what Frederick hoped. Most of the participants remained dubious about the legitimacy of his position and agreed to help him only as much as their national interests could be advanced. The Dutch's participation to the conference, for example, was due to the fact that their truce with Spain had ended in that same year and the Dutch diplomats believed that if they could put more pressure on this Imperial internal war they could win their conflict against the Spanish army. Nonetheless, thanks to this new, although limited, external support Frederick was finally able to pay the troops of the mercenary Count von Mansfeld.

However, Frederick soon realised that even the mercenary troops were not enough. The Empire, thanks to the armies of mercenaries Wallenstein and Tilly, had by that time managed to advance its position, while the Spanish troops regained control of most of the Palatinate by 1622. While the two sides were at war the lands of the rebels that had been confiscated by the Empire were being transferred to Ferdinand's supporters, who were Catholics, while the fervent Catholic Emperor

²⁴ Wilson, Peter H. *Europe's Tragedy: A New History of the Thirty Years War*: 347.

²⁵ Gindely, Antonín. *History of the Thirty Years' War. Vol. 2*: 303.

himself did not miss the opportunity and revoked the Letter of Majesty of 1609, stating it caused the initial rebellion. These actions, known as the re-Catholicization²⁶, culminated with the harsh imposition of Catholicism on Imperial lands which were traditionally Protestant, sparking this time an international Protestant response. Eventually, Frederick himself was officially banned by the Empire, with his lands and electoral vote going to the Catholic Archduke Maximilian of Bavaria in 1623.

Ferdinand's punitive actions, which did ensure a return to a complete Imperial control over the Bohemian and Palatine territories, ensured also the continuation of the conflict, with virtually all Protestant European states now having now a very good excuse to enter the war.

²⁶ Wilson, Peter H. *Europe's Tragedy: A New History of the Thirty Years War*: 389.

1.4. 1625-1629: The Danish Phase

The Danish intervention to the war had little to do with ensuring equal religious rights within the Holy Roman Empire²⁷ and a lot to do with ensuring that the Danish's control over Northern Germany, a territory that had brought in a substantial amount of wealth to Denmark, was not lost as a consequence of Ferdinand II's victory against Frederick V.

Yet, King Christian IV of Denmark, who was a Lutheran, was quite aware that he had to find a legitimate way to install himself inside this Imperial civil war. His justification came from the fact that among his titles he was also the Duke of Holstein, a territory within the Holy Roman Empire, meaning that he was a member of the Lower Saxon Kreis. His plan was that of being elected as a Kreis colonel so that he could have the power to respond to what was perceived as unlawful aggression in these lands, which in his case would have been the Empire's politics against the Protestants. The Danish King, however, was not chosen and the post was given to Duke Friedrich Ulrich of Brunswick-Wolfenbüttel²⁸. Christian IV did not accept the outcome as he needed this appointment to wage war against the Emperor and forced the assembly to meet again, this time ending with his election as colonel. He immediately mobilised over 15,000 soldiers and received help both from the English and Scottish crowns.

This show of force had the aim of putting Denmark in an upper position in the negotiations with the Emperor. The truth, however, was quite different: Denmark did not the peace talks conducted in Brunswick to be fruitful; the main aim of the nation was that of acquiring more time since Christian IV was starting to get ready to wage war in the Hague, where Britain, Scotland and the

²⁷ Wilson, Peter H. *Europe's Tragedy: A New History of the Thirty Years War*: 421.

²⁸ *Ibid.*

Dutch agreed to support the Danish offence, creating an incredibly powerful evangelical alliance²⁹. Between Denmark's now 20,000 soldiers and 30 ships and the promised 12,900 men of the alliance it seemed that the Empire was now doomed to lose.

Tilly, who by then at the head of the Imperial army, soon realised he did not have the numbers nor the money to win against the army that Denmark was gathering. Yet, Ferdinand II had still some tricks up his sleeve, and his countermove to this new alliance was that of ensuing once again the help of Albrecht von Wallenstein, a mercenary of noble origins from Bohemia who had gained a lot of wealth from the transferal of Protestant lands to Catholics during the first phase of the war. A contract was immediately signed with the Empire and Wallenstein was to raise 18,000 infantry and 6,000 cavalries. In the meantime, the Emperor sent Imperial troops to Hungary and the Hapsburg lands, for a total of 16,000 men. Tilly, on the other hand, had by this point come up with an army of roughly 35,000 men, meaning that all combined the Empire had now around 70,000 soldiers, a force that would have been difficult to overcome. By 1627, Wallenstein had marched north and taken Mecklenburg, Pomerania, and Jutland; while Tilly kept warring against Danish troops.

Christian IV was forced to retreat to the Danish islands, safe from invasion due to the fact that Wallenstein did not have a fleet nor enough money to create one, nor he wanted to anger or threaten Sweden into joining the Danish alliance. By the end of 1628, Denmark tried to regain some of his inland territories, but eventually settled to make peace in 1629. The Treaty of Lubeck saw the return of the conquest Danish provinces to Denmark, provided that the kingdom stopped supporting the German Protestant Estates. The evangelical alliance stipulated few years before was

²⁹ *Ibid.*: 425.

once for all broken, with Cardinal Richelieu commenting from France that Christian IV had been a coward to accept the peace³⁰.

In the same year, Ferdinand II proclaimed the Edict of Restitution, requiring all territories taken from the Catholic church after 1555 to be given back to the Empire. This move, which was a clear direct challenge to Protestantism in the Empire, ensured the continuation of the war and the opposition of the Protestant lands from almost twenty more years.

³⁰ *Ibid.*: 429.

1.5. 1630-1635: The Swedish Phase

King Gustav II Adolf of Sweden's reasons for entering the war are not clear. It is likely that Sweden expected to conquest the northern territories of Germany easily, but since the king did not put forward his claims against Ferdinand before dying on the battleground his aims are still unknown³¹. Scholars believe that Gustav II's intention was that of making sure that the Empire could not be a threat to the other European states anymore, and thanks to Sweden's alliance with France, whose aim was that of creating a distraction for the Empire while the French war against Spain continued, Gustav II was able to gain Pomerania quite fast. With the generous French financial support, Sweden was able to win a number of wars between 1631 and 1634, mostly thanks to the fact that Ferdinand had decided to discharge Wallenstein in 1630 due to fears he was planning a riot. The Catholic League was by the early 1630s the Empire's main army in the war, but it soon proved not strong enough. It was only in 1632, with Tilly's death, that Ferdinand recalled Wallenstein, who quickly cut Gustav's supply chain with his army. The Swedish king was killed in the Battle of Lutzen the same year and, in a turn of event, Ferdinand arrested Wallenstein the following year due to suspicions that the mercenary was about to switch sides. By 1634 the Swedish army, without their king's leadership, was overpowered once for all by the Empire force.

The signing of the Peace of Prague of 1635 between the Emperor and the territorial rulers of the German Estates, by then exhausted by the two decades of war, is commonly seen as the end of the religious war in the Thirty Years War. The agreement saw the north-eastern German Protestant rulers regaining possession of those lands seized before 1627 and Ferdinand II finally having a united Imperial army which included as well the soldiers of the German Protestant estates. Even

³¹ Wilson, Peter H. *Europe's Tragedy: A New History of the Thirty Years War*. Penguin UK, London, 2009: 498

more importantly, the Peace ensured that German princes could not form alliances with foreign powers or among themselves. Sweden, meanwhile, refused to partake in peace talks.

1.6. 1636-1648 The French Intervention

The neutrality of France during the first phases of the war might come across as surprising. The nation, at the end of the day, had a long-standing tradition of allying with those Protestant states and territories that waged war to the Empire and Habsburg family.

The reason for the French support to these nations is quite simple: for most of the 16th and 17th century, France was surrounded by Habsburg's lands. The northern territories were faced by the Spanish Netherlands, the southern ones by Spain itself and the eastern ones by Spanish and Habsburg lands. This situation had two main consequences: first, it meant that it would have been quite difficult, if not impossible, for France to expand its territories in Europe; and second, if the Habsburg family was not kept busy ensuring the maintenance of their control over the Empire, they could have joined forces with Spain and invaded France simultaneously.

As a consequence, it became custom for French Kings to support the Protestant forces against the Habsburg³², in an attempt to constantly weaken their biggest threat. In terms of the Thirty Years' War, it was only in 1624, after Cardinal Richelieu became the royal minister, that France's interventions became bolder. The first direct confrontation between France and the Empire happened in 1627, when the Duke of Mantua and Montferrat, two Italian duchies, died. The heir in line was a Frenchman, but if he was recognised as such this would have meant that the passage of Spanish troops through Milan (which was under the Spanish control) would have been threatened. The King of Spain pledged his support therefore to other possible heirs and invaded the duchies to impose his decision. France replied by siding with the French heir (who was the

³² Croxton, Derek. *Westphalia: the last Christian Peace*: 78.

legitimate candidate according to them), leading to a clash between the two powers that ended in 1631 with the peace of Peace of Cherasco³³.

This was only a minor conflict, but the significance of this event lies in the fact that Ferdinand II himself became involved, claiming he was the legitimate heir. A peace between France and the Empire was eventually reached in 1630 in Regensburg, reading that Mantua would remain Spanish and that France and the Empire would not assist or support each other's enemies. As soon as Cardinal Richelieu read the content of the treaty, however, he rejected it, stating the French ambassadors had taken too many freedoms and that therefore the agreement has no legal authority. This rejection, which also caused the negotiations talks in Westphalia to protract for years since it had created an antecedent for invalidating a legal treaty, meant that France was free to aid Sweden's invasion of the German territories that was planned for the same year.

What Richelieu wanted was weakening the Empire; he clearly did not want the Swedish army starting to conquer territories close to France itself. In order to counterbalance this new possible threat, Richelieu came up with a strategy to slow down the Swedish rapid descend: France would offer protection to those German territories which felt threatened by the new invader, confident that Sweden would not attack French troops directly and that these cities could be used as a cushion between the two allied nations. Trier was the first German Estate to ask for France's protection and this led to the instalment of first French troops in German territories in 1631³⁴. This move, obviously, brought France terribly close to a war with the Empire.

The Empire's victory over Sweden in 1634 only meant that the Nordic nation had been significantly strained and weakened; but it did not mean that Sweden had exited the war. In the

³³ Croxton, Derek. *Westphalia: the last Christian Peace*: 40.

³⁴ *Ibid.*: 46.

same year, Spain attacked and arrested the Elector of Trier³⁵ in what was a clear attempt to force France into a war with the Empire and therefore weaken Paris. The result was a French declaration of war in 1635 against Spain and the Empire's proclamation one year after of a war against France. For the first years of this French-Imperial phase of the war, France's unpreparedness was proven numerous times: the Imperial forces almost reached Paris and the Imperial armies gained control of various French cities. Soon, however, the tide started to turn and the Swedish won the battle of Wittstock by the end of 1636, defeating the Imperial and Saxon army and regaining most of the territories the Nordic nation had lost after 1634.

The beginning of 1637 saw Ferdinand's II son, Ferdinand III, become Emperor after the death of his father in what became the first smooth transition of power inside the Empire in the last half century. Ferdinand III, unlike his predecessor, immediately recognised that more than 20 years of war had worn out both physically and financially the Empire and most of the German Estates. It was high time to agree to a peace; and he certainly was not the only proponent of it. Few years before, Pope Urban VIII, tired of seeing Catholic nations at war against each other while Protestant nations kept acquiring more and more power, called Spain, the Empire and France to a meeting in Cologne, with little to no success. In the northern hemisphere, meanwhile, Denmark itself proposed peace talks between Sweden and the Empire, with the reasoning behind it, other than bringing peace to the German Estates, being that of ensuring that Sweden would not become too powerful.

³⁵ Asch, Ronald G. *The Thirty Years War*: 122.

1.7. The Cost of Westphalia

As scholar Asch wrote, “[w]hen peace finally came in 1648, the principal belligerents signed the treaties of Munster and Osnabruck not so much because they had achieved their real objectives or because they were forced to acknowledge total defeat, but because they were too exhausted to continue fighting³⁶”.

Very few battles of the Thirty Years War could be called decisive and the reason is that all nations lacked the financial resources necessary for sustaining a war of this magnitude and complexity. Moreover, the lack of national armies led all sides to rely on mercenaries, which proved to be ruthless and barbaric. The Swedish army, with its mercenaries, is believed to have destroyed roughly 2000 castles, 18000 villages and 1500 towns, burning to the ground one third of all German towns³⁷. At least 5 million people perished during the war, and the number can be increased to 8 million if we take into consideration the inaccuracy of the birth records during the war times³⁸. In some areas of the Empire, such as Prague and the Elbe valley, losses reached 50% of the population.

Most of the deaths during this period, however, were not a direct cause of battles, but were due to the numerous diseases and famines that spread across Europe. The human toll of the war is so high that when the deaths caused by typhus, plagues and epidemics are added to the human cost of the battles, the statistics show that the European population declined of around 15-20%, making the Thirty Years War the most lethal war in Medieval and modern history, followed only by the death toll of the Soviet Union during World War II³⁹.

³⁶ Asch, Ronald G. *The Thirty Years War*: 150.

³⁷ Anderson, James M. *Daily life during the reformation*. ABC-CLIO, 2010: 222.

³⁸ Wilson, Peter H. *Europe's Tragedy: A New History of the Thirty Years War*: 813.

³⁹ *Ibid.*: 812.

Chapter 2 - The Making of the Peace Talks

2.1 Introduction

If getting most actors to agree to simply discuss a possible peace treaty had already proven to be a demanding task, actually implementing the peace congress would soon prove to be an even more difficult job.

Once a general agreement for peace talks was reached, it became clear by 1638 that all states involved would have to find a compromise on three main issues before implementing the talks: they would have to decide which countries would participate, where and when the talks would take place, and which topics would be discussed. The issue from 1638 to 1641 was that while most players were envisioning from the very beginning the signing of an international peace, one in which various players would have been involved and various issues would have been discussed, Ferdinand III's initial aim was that of having to negotiate a bilateral peace only with France⁴⁰. The Empire's ambassadors and diplomats tried several times to convince Sweden to sign a separate peace so that the imperial troops could be redirected towards Spain's war against France and the peace talks for the Thirty Years War would have to be held only with the French ambassadors. Yet, after few years it became apparent that Sweden could not be persuaded into not renewing their alliance treaty with France (that would have ended in 1641) and siding with the Empire. The consequence of this realisation was a swift change in the stance of the Empire in regards to the peace talks, with the Emperor now having no choice but to accept the creation of a peace congress comprised of most of the countries and actors involved in the Thirty Years War and having to start to prepare for a settlement which would have to include generous concessions on his side⁴¹.

⁴⁰ Croxton, Derek. *Westphalia: the last Christian peace*: 66.

⁴¹ Asch, Ronald G. *The Thirty Years War*: 132.

Once all countries eventually agreed to a general peace, it was soon decided that an international congress was to be set up. This decision was a clear departure from the traditional practices of those times, and, as a consequence, it meant that, due to the differences between the various domestic political systems and religions of the nations involved, a preliminary agreement on how to conduct the peace talks would have to be reached before moving on to discussing the actual content of the treaties⁴².

⁴² Colegrove, Kenneth. *Diplomatic procedure preliminary to the Congress of Westphalia*. American Journal of International Law 13.3, 1919: 450.

2.2 1641: The Treaty of Hamburg

The contents of the Treaty of Hamburg were supposed to be quite straightforward: deciding where, when and between which actors the actual peace talks would take place. Yet, by 1638 the Empire realised that reaching a common standing on these three issues would not be an easy task. France immediately asked for passports for all German Estates in order for them all to be able to attend the peace talks (and not only those Estates that had not signed the Peace of Prague back in 1635), while Queen Christina of Sweden asked to opt for Munster and Osnabruck as the designed cities for the congress instead of Cologne and Lubeck, the two locations proposed by the Empire. Ferdinand III and his political advisors, however, agreed to all the demands without many complaints, convinced that the peace talks could start in the following months.

However, even after these arrangements there still was a critical issue that was stalling the possibility of reaching an agreement: France was still refusing to formally recognise Ferdinand III as the legitimate ruler of the Empire. It took three more negotiations for Paris to finally agreed to acknowledge Ferdinand III as Emperor of the Holy Roman Empire⁴³ and it was only in 1641, on Christmas day, that the Treaty of Hamburg was officially signed by all parties, settling the procedures for reaching a final, general, peace.

The preamble of the document, which was published in all major cities of the states involved, read: *“His Holy Roman Imperial Majesty [...] wishes to announce to all to whom it may concern, that after many years of negotiations over the basis to start general peace talks, and after the most diverse difficulties arose from the preliminaries, finally, thanks to the divine assistance and the*

⁴³ Whaley, Joachim. *Germany and the Holy Roman Empire: Volume II: The Peace of Westphalia to the Dissolution of the Reich, 1648-1806*. Vol. 2: 638.

*intervention of the authority of the serene king of Denmark as a mediator, the following preliminaries have been agreed.*⁴⁴”

The Hamburg treaty stated that, first and foremost, the peace would have taken the form of a universal treaty; and, secondly, that all French allies would have been able to participate in the actual negotiations. The document then read that the talks among the Empire and France (and its allies) would take place in Munster. This meant that the French ambassador, the representatives of the United Provinces, Sweden, Spain and of the Papacy, as well as the electors of Trier and Palatinate, and the ambassadors of all German Estates who were allied with France would convene in Munster so as to reach a peace with the Empire. Similarly, the peace talks with Sweden were to take place in Osnabruck, meaning that the Swedish ambassador, the French representatives and the same German Estate who were allied with France were granted permission to assist the talks in Osnabruck.

The importance of the Treaty of Hamburg, which is an administrative treaty, lies in the fact that it underlines two important aspects of the peace talks. First, that the partition in the two cities of the various actors was based on alliances, not on religion: for example, the United Provinces, Protestant, were to convene in Munster along with Catholic France and Spain. Second, that the two separate agreements would have constituted a single treaty⁴⁵. The necessity of conferring in two separate cities was given by the fact that Sweden refused to enter into discuss with the Empire if the mediator of the talks was sent from the Papacy: while the Catholic mediator was willing to “ignore” the presence of protestants at the peace talks, Queen Christina did not want to accept the

⁴⁴ Wilson, Peter H. *The Thirty Years War: A Sourcebook*. Macmillan International Higher Education, n.p., 2010: 280.

⁴⁵ Croxton, Derek. *Westphalia: the last Christian peace*: 80.

“subordinate position that this implied⁴⁶”. Eventually, it was implicitly agreed that while the Papacy would have mediated among the various powers present in Munster, Denmark would have arbitrated in Osnabruck.

Finally, the treaty of Hamburg ends with placing the timing for the peace talks, stating that “*the date of both congresses at Osnabruck and Munster to open formally has been fixed as March 25 of the coming year*”⁴⁷. This, however, would not be the case: the talks would not begin in March 1642, as hoped, but almost three years later, in 1645.

One of the most interesting aspects of the Hamburg Treaty is that it does not call for a general truce among the parties while the peace talks take place and the implication of this decision was that the party states continued fighting against each other until (and for some nations even after) 1648⁴⁸. The issue of whether or not to impose a cease-fire before starting the peace talks was one of the many topics debated over and over again from 1641 to 1648, and one of the papers presented at Westphalia by the French envoy even read “Is it necessary to make a truce or suspension of arms before treating of peace?”. However, once it became clear that no nation was willing to opt for a truce, Prior Adam Adami, who was in Westphalia representing the Catholic monasteries and chapels of the German Estate Swabia, simply stated “In winter we negotiate, in summer we fight⁴⁹”.

⁴⁶ Croxton, Derek. *Westphalia: the last Christian peace*: 81.

⁴⁷ Wilson, Peter H. *The Thirty Years War: A Sourcebook*: 280.

⁴⁸ Whaley, Joachim. *Germany and the Holy Roman Empire: Volume II: The Peace of Westphalia to the Dissolution of the Reich, 1648-1806*. Vol. 2: 620.

⁴⁹ *Ibid.*: 621.

2.3 1642: The (Slow) Arrival of the Delegates

One of the aspects that has to be remembered when analysing the events and the actions that eventually led to the signing of the Peace of Westphalia in 1648, it is essential to remember that the practice of diplomacy had started to emerge only at the end of the 15th century and that by the 17th century diplomats and statesmen were quite anxious about following the ‘proper’ mode of conduct of diplomacy⁵⁰.

As a consequence, March 1642 came and went by, with the various representatives and ambassadors refusing to take lodge in the two cities before the arrival of the French, since they wanted to avoid to seem too keen to start the negotiations. The first delegation to enter one of the two cities (if we do not consider the Empire representatives who had arrived in the two towns back in 1642) was the Danish one, arriving in Osnabruck on September 15, 1643. France, with its new government of Cardinal Mazarin, decided on the other end to wait for the end of their (quite successful) 1643 military campaign season before sending its delegates to the negotiations. After leaving Paris only in late October, French diplomats and statesmen finally started to arrive in Osnabruck and Munster just before the end of the year. By 1643, all nations had sent their representatives: Sweden’s negotiators were headed by Count Johan Oxenstierna, aided by Baron Johan Adler Salvius; the Papacy was represented by Fabio Chigi; Spain Gaspar sent de Bracamonte y Guzmán; Venice Alvise Contarini; the French’s delegation was under Duke of Longueville Henri II d'Orléans, aided by the diplomats Claude d'Avaux and Abel Servien; and, finally, the Empire’s delegates were led by the by then quite renown Count Maximilian.

⁵⁰ Colegrove, Kenneth. *Diplomatic procedure preliminary to the Congress of Westphalia*: 451.

The arrival of the delegations, however, did not mean that the peace congresses could start. As mentioned before, France had ensured the possibility of participation for all of its allied German Estates, while the Emperor had decided to be consulted by the electors of Bavaria and Cologne for the French negotiations and the electors of Brandenburg and Mainz for the Swedish negotiations. In fact, the remaining Estates of the Empire did not agree with the lack of their representation and stated that they had the right to be present as well during the talks. This declaration held quite a lot of power: although the Emperor was the official detainer of power within the Empire, his decisions were mostly based on the opinion of the electors, meaning that to some extent the monarchical aspect of the Empire was quite limited. In fact, although the Emperor was commonly perceived as the face of the Empire in matters with regard to foreign relations with other nations, the real constitution of the Empire's politics could be seen as somewhat aristocratic, especially since the decisions of the Estates in a number of matters were decisive⁵¹.

As a consequence, Ferdinand III had in reality little choice but accepting the presence of the Estates at the negotiations. He conceded them an advisory title in an attempt to try to not to appear too weak in front of the other nations, but by that time it had become clear that those Estates would have attended the congresses either the Emperor agreed to it or not. In 1645, Ferdinand III, after numerous accusations by France and Sweden that he had no right in not involving the Estates in the peace-making process, officially asked the Empire's Deputation Diet to join him in the talks and by the end of the year most Estates had sent representatives to one (or both) of the two cities, adding remarkably to enlarging the actual size of the congresses. Studies have estimated that around 194 diplomatic missions (some made up by almost 200 members), 176 plenipotentiaries representing 16 European countries, 140 Imperial Estates and 38 other Estates appeared at either

⁵¹ Croxton, Derek. *Westphalia: the last Christian peace*: 86.

Münster or Osnabrück⁵² at some point, making the two congresses one of the most universal diplomatic gathering in our history as well as one of the most expensive congresses ever held.

⁵² Whaley, Joachim. *Germany and the Holy Roman Empire: Volume II: The Peace of Westphalia to the Dissolution of the Reich, 1648-1806*. Vol. 2: 620.

2.3.1 The Swedish and Papal Scares

In 1643, as ambassadors and envoys finally started to arrive in the two German cities, a new and unexpected war seemed to threaten the beginning and the very existence of the peace talks: Sweden decided that it was time to invade Denmark. Its timing was not a coincidence: Denmark's part in the creation of the Congress of Westphalia, and in particular its mediating role, aimed at ensuring that Sweden would not be able to become too powerful and, most importantly, would not be able to acquire Pomerania. As seen in the first chapter, the war eventually ended in 1645, and Sweden's victory signalled to the rest of Europe the actual power and capacity of that reign. The confrontation among the two Scandinavian giants had two important repercussions for the peace talks. First, it postponed the congress for two more years since Ferdinand III refused to start the talks without the mediation of Denmark; and secondly, once resumed, the talks among Sweden and the Empire went on without the Danish arbitration, since the nation had by that time been virtually removed by the congress⁵³.

A second minor issue that could have undermined the same existence of the peace talks was the death of Pope Urban VIII just ten days before the beginning of the talks in 1644. The general apprehension of the delegates already arrived in the two cities was given by the fact that although Pope Urban VIII had been one of the actors who had strongly lobbied for the end of the war, it was not clear whether his replacement would hold the same beliefs and therefore whether the Papacy would mediate between France and the Empire. The uncertainty lasted for roughly a month, and once Innocent X was elected, he immediately confirmed Fabio Chigi as the Papal mediator in Munster.

⁵³ *Ibid.*: 620.

2.4. 1644: The Official Beginning of the Talks

Since diplomacy was still in its infant state back in the 1640s, the first months of the negotiations saw the negotiators arguing over the proper norms and courtesies that were to be followed. One of the most critical aspects (and innovation) of the peace talks was that the letters of accreditation that each ambassador was given had to also include the terms of agreement of that specific nation. These letters, which were similar to legal written documents, had been made mandatory for each envoy so as to avoid the repetition of the difficulties encountered with the signing of the Peace of Regensburg in 1630⁵⁴, when the French government refused to accept the Peace Treaty as it stated its delegation had taken too much liberty and its conditions were not favourable to Paris.

The year 1644 saw a number of issues involving the letters: the Empire contested the French accreditation letters since they stated that the French envoy had to make peace together with its allies. The Empire argued that this meant that if one of France allies was not present France could claim the negotiations invalid and this would have prolonged the talks even more. The French ambassador replied by complaining about the fact that the Empire's letters only spoke of negotiation, not of a conclusion of the peace talks, as if Ferdinand III did not want to actually reach a peace agreement⁵⁵. It was only by the end of 1644 that the accreditation letters issues were solved and new letters were sent to the two German cities.

By this time, one of the most challenging points on which the ambassadors would have to discuss for the following three years was also introduced; that was, how to reach an agreement seen as agreeable by all the parties involved. The problem was that each delegation hold different

⁵⁴ Asch, Ronald G. *The Thirty Years War*: 100.

⁵⁵ Croxton, Derek. *Westphalia: the last Christian peace*: 101.

predictions of how the talks should go, with the only exception being that all envoys wanted to end the war.

For instance, the Emperor's goal was that of finding a way to reassemble his crumbling Empire. His main aim, therefore, was that of reuniting the German Estates and ensuring their support to him against external powers. As a consequence, Ferdinand III immediately made it clear that he would not concede a lot of the Empire lands during the negotiations: he realised that a piece of Alsace had to be given to France, but he set this concession as his limit and refused to talk about the possibility of surrendering other lands.

France, on the other hand, had two main goals: acquiring new territories and ensuring that Spain walked out weakened by the talks. The French envoy therefore demanded to the Empire the return of Alsace as well as three Bishops, respectively Metz, Toul and Verdun. From Spain, France demanded Savoy and Pinerolo. Mazzarini was willing to debate only on the territory of Catalonia with Spain, although he claimed he would do so only if Spain agreed on a truce that would see France governing Catalonia for the next 30 years.

Spain, instead, simply aimed at negotiating some sort of peace since the cost of its war against France was becoming unbearable. One of the Spanish envoys wrote "If I had to give instructions to a new ambassador, I would tell him to make a good peace, or a mediocre peace, or a bad peace, but to make peace, because there is no more time to delay⁵⁶".

When it came to the Estates aims, they were not taken too seriously. Most of them were too small to hold power during the talks and only a couple were significant in the outcome of the negotiations. Duke Maximilian of Bavaria, for example, yield a important amount of influence since he had

⁵⁶ *Ibid.*: 119

been of the closest allies to the Emperor throughout the entire war. He sided with Ferdinand's opinion of the negotiations, but he was also willing to allow more negotiating room with France so as to have Paris helping the Empire maintain its Catholic faith. The only Protestant Estate which was able to make its voice clear and loud during the talks was Hesse-Kassel, which tried to advance the rights of Calvinists in the Empire and generally weaken the position of the Emperor by siding with France and Sweden during the two congresses.

The main Protestant power, interestingly, had only two goals. Sweden wanted to increase its territories (especially by acquiring Pomerania) and ensure the loyalty of its new allies, *in primis* among the Protestant Estates. Its policy, therefore, was that of supporting the demands of the Imperial Protestants so that they would in turn support Sweden's demands for land and not because it strongly believed in the importance of freedom of religion⁵⁷.

Finally, the United Provinces, which had maintained a neutral standing during the war and were still technically part of the Empire, entered the peace talks with few demands: the formal recognition of their existence, the ensuring of Protestant rights within the Empire, and the obtainment of the approval for the maintenance of an army even during peace times, a choice not very common at that time.

⁵⁷ Wilson, Peter H. *Europe's Tragedy: A New History of the Thirty Years War*: 767.

2.5. The Westphalia Treaties

2.5.1 The International Agreements

When the peace negotiations finally began in 1644, there were two stances that all parties shared: first, none of the players was willing to accept bold compromises to reach a peace settlement and therefore show their eagerness; and secondly, each nation believed that peace could now be reached in few months.

It would, however, soon prove not to be the case. It would take four more years before both cities could reach an agreement, and during this time alliances, internal political changes and victories in the various battles kept changing the course of the talks and threatening the very existence of the congresses. By 1645, the Empire, by now exhausted by the war, became (secretly) willing to concede more lands in order to reach a peace. In the worst-case scenario, Ferdinand III was ready to give Pomerania, Rostock, Wismar and some lands of Bremen to Sweden and Alsace to France, although only with a clause which stated that France would never be part of the Imperial Diet. When it came to the religious and political matters inside the Empire, however, Ferdinand still refused the Swedish demands for better recognition and protection of Protestantism within the Empire.

On the other side, France found itself in a strong military position by 1646 and the agreement reached between the Empire and France on that year proves it. This document, which stated the conditions for a French ‘satisfaction’ and which was basically copied in the final treaty, saw the Empire giving to Paris various lands in Alsace, as well as the Bishoprics of Metz, Toul and Verdun⁵⁸. The importance of these new acquisitions laid in the fact that since these were Imperial

⁵⁸ *United Nations Treaties Series*, vol. 24, 349-353, New York, Munster Treaty, Article 71.

lands, the French government was now able to intervene in German affairs much more quickly. Moreover, France demanded the destruction of various Imperial fortresses which were seen as possible threats to these new acquisitions. Vice versa, France was to pay 3 million of French livres to the Empire⁵⁹; renounce its claims on other German lands; and pay the majority of the debt that the Hapsburg administration in Alsace had. This agreement, which was left unsigned in 1646, virtually marked the end of the general negotiations among the two Catholic powers.

Spain, meanwhile, was able to score some important diplomatic victories outside of the general peace talks: by 1647 the country not only gained some important military victories against France, but it also signed a truce, which then became permanent and known as the Peace of Munster, with the Dutch Republic, weakening in this way France, ending its Eighty Year War, and conceding once and for all the full political recognition to the Dutch Republic. France and Sweden, on the other hand, kept pushing for the acceptance of their agendas until 1647, but they also eventually resigned to the fact that not all their demands could be met. In particular, in regards to the role of the Emperor, the French and Swedish proposal that the successor to an Emperor should not be elected while the current Emperor was living was met with strong resistance by the German Estates themselves⁶⁰, as it was perceived as an apparent attempt to decrease the power of the Hapsburgs in choosing the new Emperor and an attempt to weaken the entire Empire, not only the Hapsburg family. Another important point which was not accepted neither by the Emperor nor by the Estates was that the decisions taken by the Imperial Diet would be valid only when unanimous, a proposal that if accepted would have virtually frozen the most important apparatus of the Empire.

⁵⁹ *United Nations Treaties Series*, vol. 24, 349-353, Article 93.

⁶⁰ Croxton, Derek. *Westphalia: the last Christian peace*: 130.

Once France and Sweden realised that in order to gain the territorial concessions and financial compensations they had to let go of their more radical political and religious requests, the talks proceeded more smoothly. Sweden, in particular, knowing it would not have the French support when it came to the rights of Protestants within the Empire, that same year decided to revise its religious stance to make it more acceptable. The Swedish acquisition of Pomerania, however, was a slightly more complex issue: while the Emperor was willing to concede the region to Sweden if necessary, Pomerania was an Elector's territory and ruled by Frederick William. After months of discussion, Sweden accepted West Pomerania⁶¹, mostly due to the fact that negotiations in Munster by that time were over and time was running out. Finally, the Empire and the Swedish ambassador agreed as well on the monetary compensation, eventually settled at 6 million thalers.

2.5.2 The Final Division of the Estates and the Recognition of Protestant Rights within the Empire

The Thirty Years War started with the rebellion of one Estate, and during the war most German Estates were either conquered by foreign powers, divided into smaller Estates or given to new rulers who were loyal to the Emperor. It seemed logical therefore that the peace congress would also include in its negotiations the discussion on how the German Estates should look like after the war and which rights should be given to them.

One of the main issues regarding the Estates was that during the war Maximilian of Bavaria had obtained the majority of Upper Palatinate from the Empire as a payment of the financial support he had offered to the Empire. Along with the new land also came the electoral position within the Empire, and as a consequence Bavaria was now firmly opposing the possibility of returning the

⁶¹ *United Nations Treaties Series*, vol. 24, 349-353, Article 10.

Palatine territory to Frederick V's son Charles-Luis, who was the legitimate heir of the land and a French ally. It was France that proposed the creation of an eighth electorate in Lower Palatinate under the rule of Charles-Luis to solve the problem, leading to the creation of a Catholic Bavarian Palatinate and of a Protestant Palatinate, both of which were to be officially recognised by the Empire⁶².

A second matter debated at the congress in regards to the Estates dealt with the religious issues within the Empire. It became apparent quite soon that the discussions among the Catholic representatives, the Protestant ones, the Empire envoys and the Swedish and French ambassadors would be quite taxing, and it was only by 1648 that an agreement was reached: freedom of worship would be assured to all those who practised their religion before 1624, while those who converted after that date would be granted the possibility of devotion inside their homes. Moreover, Protestants were given 24 out of the 50 judges' seats in the Imperial Chamber Court and it was agreed that on religious matters the number of Catholic and Protestant judges would be equal. In order to ensure these points, France and Sweden became guarantors of the treaty, meaning that if a dispute on these issues was not solved peacefully by the Imperial Courts within three years they could intervene⁶³.

Finally, it was agreed that the Westphalia treaty would become part of the constitutional law of the Empire⁶⁴, clearly stating that no Estate, under any circumstance, had the right to attack the Empire - hoping that in this way Europe would not have to face another Thirty Years War.

⁶² *United Nations Treaties Series*, vol. 24, 349-353, Munster Treaty, Article 14.

Ibid. Osnabruck Treaty, Article 4.

⁶³ *United Nations Treaties Series*, vol. 24, 349-353, Munster Treaty, Article 123.

Ibid. Osnabruck Treaty, Article 17.

⁶⁴ *United Nations Treaties Series*, vol. 24, 349-353, Munster Treaty, Article 121.

Chapter 3 - The Westphalia Treaties: the Birth of Modern Sovereignty?

3.1 Introduction

Although it took more than 10 years to reach a general peace agreement, it soon became clear that the signing of the treaties would not bring peace to Europe: Spain and France would end their war only in 1659, with the first renouncing to its claims on Portugal only in 1668 and the second living through a period of internal revolts from 1648 to 1653; the Roman Empire would never manage to regain its (imperfect) internal balance⁶⁵; the Papacy would lose even more of its political influence; for most of the German Estates change would never arrive; and only Sweden would go on to become one of the major forces in Europe and enter a long time of prosperity after the signing of the treaties.

Westphalia, in few words, did not bring reconciliation (or a new political system) to the European Christendom. The peace talks certainly achieved a number of victories, among which the recognition of protestant rights; the creation of a religious safeguarding system within the Holy Roman Empire and the creation of a precedent for those ‘universal conferences’ that were to come in the following decades and centuries; but the treaties did certainly not intend to break away from the past and inaugurate a new era of European politics. How did then Westphalia come to be considered as the birth of our modern international political system and seen in such positive terms? Although an answer will be given in the second half of this thesis, it can be said for the time being that most of the misunderstanding around the content of treaties comes from the fact that for a

Ibid. Osnabruck Treaty, Article 17.

⁶⁵ Wilson, Peter H. *Europe's Tragedy: A New History of the Thirty Years War*: 775.

number of years scholars either took for correct the analysis of other academics or read through imperfect translations of the texts.

Generally speaking, there are two classical concepts of international relations that are associated with the treaties: the first is the creation of the modern idea of sovereignty; and the second is the creation of a 'primitive' international balance of power. Yet, none of these notions is actually present in the treaties, as the following textual analysis will show.

3.2 The Concept of Sovereignty in the Treaties

The majority of scholars of international relations argue that Westphalia is the starting point of the modern concept of sovereignty⁶⁶ and a quick search in most university textbooks on international affairs will show that this is the mainstream view. One of the most cited works in regards to the peace treaties and the role they played in the creation of an international society is a 1948 article by legal scholar Leo Gross, which appeared in the *American Journal of International Law* and was simply titled “The Peace of Westphalia 1648-1948”. Considered a classic by many international relations and international law experts, it was in this essay that Gross wrote that “[...] Westphalia, for better or for worse, marks the end of an epoch and the opening of another. It represents the majestic portal which leads from the old into the new world⁶⁷”. Continuing on a similar note, Gross then argued that Westphalia represented the creation of a new system based on international law and balance of power, with the law and the power starting to operate between the states and not above them for the first time in history⁶⁸.

In the same year, H.J. Morgenthau, a renowned academic and one of the fathers of the school of realism, held a similar position, stating that: “by the end of the Thirty Years War, sovereignty as supreme power over a certain territory was a political fact⁶⁹” and that “the rules of international

⁶⁶ See, for example, Piirimäe, Pärtel. *The Westphalian myth and the idea of external sovereignty. Sovereignty in fragments: the past, present and future of a contested concept* (2010): 64-82; Newnham, Jeffrey. *The dictionary of world politics: a reference guide to concepts, ideas and institutions*. Harvester Wheatsheaf, 1992; Bull, Hedley. *Does order exist in world politics?* The Anarchical Society. Palgrave, London, 1977. 22-50; Kinsella, David, Bruce Russett, and Harvey Starr. *World politics: The menu for choice*. Cengage Learning, 2012; or Held, David. *Democracy and the global order: From the modern state to cosmopolitan governance*. Stanford University Press, 1995.

⁶⁷ Gross, Leo. *The Peace of Westphalia, 1648–1948*. *AJIL*, 1948 42: 10.

⁶⁸ *Ibid.*: 11.

⁶⁹ Morgenthau, Hans J., Kenneth W. Thompson, and W. David. Clinton. *Politics among Nations: The Struggle for Power and Peace*. McGraw-Hill Higher Education, Boston, 2006 edition: 312.

law were securely established in 1648⁷⁰”. There are usually three main arguments made in light of this view.

First, many scholars state that the uniqueness of these treaties lies in the fact that these documents were not simply drafted as a mean to reach an agreement between two warring sides. According to them, the Peace of Westphalia aimed at establishing new rules in the legal matters of the Empire, marking the end of the absolute power of the Emperor and the beginning of a new period where Estates were independent. There are two articles that the scholars who argue that the Peace of Westphalia represents the break from the *ancien regime* and signals the beginning of the modern concept of sovereignty often quote to prove their points. The first is Article 8-1 of the Osnabruck Treaty, which states that:

“In order to prevent all future disputes over the political order, each and every elector, prince, and estate of the [Holy] Roman Empire shall, by virtue of this treaty, be established and confirmed in their possession of all their ancient rights, prerogatives, liberties, privileges, the free exercise of their territorial rights, both spiritual and temporal, their seigneuries, and their regalian rights. In the possession of all these things, they may not, by virtue of the present transaction, be molested at any time, in any manner, or under any pretext whatsoever⁷¹.”

The second is Article 65 of the Munster Treaty, which states similarly that:

“They [The Estates] shall enjoy without contradiction, the Right of Suffrage in all Deliberations touching the Affairs of the Empire; but above all, when the Business

⁷⁰ Ibid: 293.

⁷¹ *United Nations Treaties Series*, vol. 24, 349-353, Article 8-1.

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 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 Empire⁷².”

What the supporters of this vision argue is that these articles show that the German Estates acquired important rights: they could now legislate independently, collect taxes, levy soldiers and enter in alliances with foreign states. In few words, the Estates gained the same rights that independent states have.

This, however, was not the case. It is clearly stated at the end of Article 65 that the Estates could enjoy such independence as long as their actions aligned with the foreign policy of the Holy Empire and the conditions of the Peace of Westphalia. As scholar Derek Croxton stated: “Although the estates were given new rights [...], these rights demonstrate the limits to their sovereignty rather than its triumph. First, estates had been making treaties with outside powers long before the peace of Westphalia. Imperial sovereignty was more seriously infringed, in fact, by the Peace of Passau

⁷² *United Nations Treaties Series*, vol. 24, 349-353, Article 65.

of 1552, when the Emperor granted nobles the right to serve as mercenaries, even in the armies of his enemies, whereas Westphalia restricted the right to make alliances to alliances not directed against the Empire⁷³.”

Another affirmation that is often made in regards to the Peace of Westphalia is that the new rights granted to the Estates in 1648 can be interpreted as clear examples of the Latin concept of a ‘jus territoriale’, which is then translated as territorial sovereignty⁷⁴. This conclusion, often derived by the German translation of the Latin construct ‘jus territoriale’ as ‘Landeshoheit’ (meaning sovereignty), is, however, partially incorrect, since what the writers of the treaties implied was that there should be a distinction between the territorial authority of the Estates and the absolute and final authority of the Emperor⁷⁵. As scholar Luis Moita argues, the concept of territoriality existed in Europe since the 12th century, although in a limited extent. In particular, the phrase expression *rex in regno suo est imperator*⁷⁶ was used since the late Middle Ages and referred to a model of power more similar to that of royal absolutism than modern sovereignty. This analysis is proven correct by the fact that the Roman Empire did not dissolve after signing the 1648 peace treaties and that the Estates kept raising taxes for the Emperor, kept participating in the Imperial Diet and, most importantly of all, kept recognising the Emperor as their superior leader.

Secondly, some scholars argue that even though it may be hard to see how these treaties were innovative if we base our analysis only on the documents, it is hard to deny that the consequences they had were ground-breaking. Leo Gross, for example, wrote that “the actual terms of the

⁷³ Croxton, Derek. *The Peace of Westphalia of 1648 and the Origins of Sovereignty*. The international history review 21.3, 1999: 575.

⁷⁴ See for reference Osiander, Andreas. *Sovereignty, international relations, and the Westphalian myth*. International organization, 2001: 251-287.

⁷⁵ Croxton, Derek. *The Peace of Westphalia of 1648 and the Origins of Sovereignty*: 575.

⁷⁶ Moita, Luís. *A Critical Review on the Consensus Around the “Westphalian system”*. JANUS. NET, e-journal of International Relations 3.2, 2012: 31.

settlement would hardly suffice to account for the outstanding place attributed to it in the evolution of international relations. In order to find a more adequate explanation it would seem appropriate to search not so much in the text of the treaties themselves as in their implications, in the broad conceptions on which they rest and the developments to which they provided impetus⁷⁷.” However, it is quite hard to see the “outstanding role” the treaties played in the field of international relations. For once, Westphalia did not lay the basis for the recognition of rights for all polities of the Roman Empire. The Peace favoured the recognition of only few of them and, as a consequence, by the 17th century the Empire was divided in a sea of semi-autonomous units with drastically different rights. On the one hand, there were some Estates, roughly 300, that enjoyed their own territorial jurisdiction and were represented in the Imperial Diet; while on the other there were roughly 1.000 units that had no rights nor jurisdiction over their territories, clearly showing that the treaties did not create independent, sovereign states⁷⁸.

A third political concept that is often linked to the Peace of Westphalia and is often cited as one of the examples of the treaties’ creation of modern sovereignty, is that of *cuius regio, eius religio* (whose realm, whose religion). A principle often linked to the beginning of religious freedom in Europe and actually not present in the treaties, it has come to be associated with Westphalia nonetheless. However, while it is true that the two treaties did grant the Estates’ princes the ability to choose the official religion of their Estates, allowed their inhabitants to migrate to other Estates in case they practised a different religion and ensured them the ability to practice it safely in their homes, certainly taking power away from the Emperor himself, they did not help moving Europe towards the creation of the modern sovereign state. If anything, this new recognition linked the

⁷⁷ Gross, Leo. *The peace of Westphalia, 1648–1948*: 26.

⁷⁸ Moita, Luís. *A Critical Review on the Consensus Around the “Westphalian system”*: 34.

political power of the Princes with their religious authority within the Estates even more, mixing the temporal and religious powers together; a trait completely absent in the modern vision of secular sovereignty. It cannot be argued, therefore, that Westphalia represents the end of a Catholic Europe; if anything, the Peace merely signalled its deeply rooted state of crisis.

Finally, it is important to remember that none of the powers who signed the Peace acknowledged one of the most fundamental concepts of modern sovereignty: the principle of non-interference. Seen as the belief that a State should not intervene in a dictatorial way in the internal affairs of other States⁷⁹, the entire Thirty Years War and all the events that happened after the signing of the Peace of Westphalia are clear examples of states interfering in the internal affairs of the Empire, with France and Sweden entering the war under the pretext of safeguarding the rights of the German Estates within the territory of the Empire so as to advance their interests.

⁷⁹ <https://pesd.princeton.edu/node/551>

3.2.1 The Issues with the Recognition of the Sovereignty of the Dutch Republic and Switzerland

A second possible argument in favour of seeing the treaties as the beginning of our modern political sovereignty might be the fact that the Peace led to the recognition of the independence of the Dutch Republic and of the Swiss Confederacy.

This, however, is only partially accurate, as the political reasons behind these two decisions were quite complex. For once, while Spain had formally recognised the independence of the Dutch Republic with the bilateral Peace of Munster of 1648, the Empire had not. Yet, during the Westphalia peace talks the Dutch decided not to debate their relationship with the Empire and eventually opted for not being one of the signatories of the treaties. There is only one article in the Peace of Munster (which was never ratified by the Imperial Diet) that mentions the Empire. The passage reads that the Lower Provinces will continue to observe “the neutrality, friendship, and good neighbourhood” between the Empire and themselves, and although this is a clause that implicitly recognises their independence, for decades after the signing of this peace the Empire kept holding some sort of authority over the Dutch territories⁸⁰.

The matter of the Swiss Confederacy was quite different. De facto already independent, Switzerland played no substantial role in the Thirty Years War and initially made no demands during the talks. It was the Burgomaster of Basel, a territory which had become part of the confederation only in 1499, that brought forward some demands during the talks. The issue at hand was that the Empire *per se* still saw Basel as part of its jurisdiction and lawsuits concerning the city and its inhabitants were therefore being brought before the Imperial Cameral Tribunal. Basel,

⁸⁰ Osiander, Andreas. *Sovereignty, international relations, and the Westphalian myth*. International Organisation, 2001: 268.

encouraged by France, asked as a consequence the recognition of the Swiss immunity to be included in the treaty so that its merchants would not have to respond anymore to the Imperial legal system. As the years passed, however, Basel, still under the French influence, began to argue so as to have the entire Swiss Confederacy officially recognised as independent. Article 6 of the Treaty of Osnabruck reads:

“His Imperial Majesty has sought counsel from the Imperial estates concerning the complaints that were made in the presence of his plenipotentiaries and deputies in the present assembly in the name of the city of Basel and of all Switzerland, touching certain procedures and executory orders issued from the Imperial Chamber [Court] against the said city, the other united Swiss cantons, and their citizens and subjects, who had asked the estates of the Empire for counsel and advice. His Majesty declared, by a particular decree of May 14, 1647, that the said city of Basel and the other Swiss cantons possess full liberty and are exempt from the Empire and in no way subject to the tribunals and sentences of the said Empire. It has therefore been decided that this same decree shall be incorporated into this public peace treaty and be regarded as valid and lasting. Therefore, all suits and the confiscations at any time occasioned by them shall be void and invalid.⁸¹”

Yet, this independence was perceived by most Swiss cantons more like a medieval privilege than a real independence, with some regions deciding to keep using the Imperial eagle in their insignia for many more decades⁸², and it therefore did not hold the modern meaning of the word.

⁸¹ *United Nations Treaties Series*, vol. 24, 349-353, Osnabruck Treaty, Article 6.

⁸² Osiander, Andreas. *Sovereignty, international relations, and the Westphalian myth*: 268.

It is therefore quite clear that the Westphalia treaties were part of a more broad legal tradition and that they do not represent the beginning of the modern concept of sovereignty as we intend it today. Not only the word 'sovereignty' did not exist in Latin, which was the language used for the treaties, but such concept was not even mentioned in the transferring of lands between the Empire and France and Sweden⁸³.

⁸³ Croxton, Derek. *Westphalia: the last Christian peace*: 362.

3.3 The Concept of Balance of Power in the Treaties

Finally, some experts of international relations argue that the treaties are also the birth of the modern concept of balance of power⁸⁴. This is an important claim: the balance of power is arguably one of the most fundamental beliefs of international relations, and if we define it broadly as the creation of a coalition among smaller states so as to counteract the power of a stronger state it can also be argued that it is the most cited and studied theory in modern international relations literature⁸⁵.

Interestingly, its connection to the Westphalia peace talks is not fictitious. Although there are no mentions of a balance of power in the treaties, there were talks of creating an equilibrium between the nations present at Osnabruck and Munster during the congresses. Sweden even recognised that its continuous victories might create problems during the negotiations, with Count Salvius, one of the Swedish representatives, writing in 1646: “People are beginning to see the power of Sweden as dangerous to the “balance of power” (Gleichgewicht). Their first rule of politics is that the security of all depends on the equilibrium of the individuals. When one begins to become powerful [...] the others place themselves, through unions or alliances, into the opposite balance in order to maintain the equipoise⁸⁶.” This extract, however, clearly shows that since the concept was mentioned so quickly the idea was neither new nor important. Therefore, as academic Moita wrote, “[Although] the principle of balance of power is present in the logic of the Thirty Years' War and in the European territorial reorganisation which followed, [this] does not imply that there was in fact a “Westphalian system”, and that the referred principle was one of its original elements⁸⁷.” It

⁸⁴ Osiander, Andreas. *Sovereignty, international relations, and the Westphalian myth*: 261.

⁸⁵ Little, Richard. *The balance of power in international relations: metaphors, myths, and models*. Cambridge univ. press, Cambridge, 2007:14.

⁸⁶ Parker, Geoffrey. *The Thirty Years' War*. Routledge, London, 2006: 164.

⁸⁷ Moita, Luís. *A Critical Review on the Consensus Around the “Westphalian system”*: 21.

is clear from the text of the treaties themselves, which lack any mention of the concept, and from the aftermath of the peace treaties that the importance of the balance of power only played a minor role during the talks.

Lastly, although the Peace of Westphalia has come to be seen as a sort of pan-European treaty in the minds of most modern scholars and students, it is important to stress that the negotiations were signed only among three actors: France, Sweden and the Empire⁸⁸, and it is therefore quite disputable to argue that an international order composed of sovereign states and based on the concept of balance of power emerged in 1648.

⁸⁸ *United Nations Treaties Series*, vol. 24, 349-353, Article 1.

3.4 Conclusion

It can be concluded from this brief textual analysis that the Peace of Westphalia was an agreement concerning two main issues: religion and territoriality. Regarding the first matter, following the 1555 Peace of Augsburg, the Westphalia treaties aimed at creating a regime of religious practice and denominational matters⁸⁹, setting in place a safeguarding system for Protestants and Catholics living within the Empire and leading to a better representation of the two religion in judicial matters. The territoriality aspect of the agreements, as seen, mostly involved territorial settlements between the three main parties, namely France, Sweden and the Empire. The contents of the treaties in no way referred to the concepts of sovereignty or balance of power, and the Peace did not mark the end of the Middle Ages and the beginning of the modern era.

This, however, does not mean that Westphalia should hold no importance for the scholars of the field of international relations: although the treaties should not be considered the starting point of the modern international system, they still represent an important step towards a more contemporary understanding of international politics. In particular, the creation of two international congresses to reach an agreement on two peace treaties was a unique choice for that time. The complexity of the negotiations was also increased by the fact that the delegates had to periodically leave one city to go and discuss the proceedings with their counterparts in the other town. According to the gazettes of those times, this process would usually require only three days, unless unforeseen problems arose. Westphalia was a truly difficult process, very demanding and extremely expensive, but the creation of these two congresses definitely helped to consolidate the

⁸⁹ Beaulac, Stéphane. *The Westphalian Legal Orthodoxy-Myth or Reality?* Journal of the History of International Law 2.2, 2000: 148-177.

notion that international issues can (and should) be solved only by reaching a common and shared agreement among all the players involved⁹⁰.

Even more, Westphalia was the first peace treaty conference to be publicly discussed in the newspapers of that time. Its length, as well as complexity, meant that its contents could not remain secret, and during its four final years of negotiations and discussions many articles were written on the two congresses, leading to numerous reactions from the public and a more transparent diplomacy⁹¹. There were summaries of the how the negotiations were going, of what the delegations were doing and of which issues were blocking the proceedings. The “press” coverage of the two congresses was so detailed and rapid that, for instance, a 1647 publication of the *Gazette de France* reported on the fact that the Spanish delegates at Munster were waiting for the arrival of the negotiators of the Dutch Republic to ratify the treaty between the Spanish Crown and the republic⁹² (the Treaty of Munster of 1648), and that the Emperor had meanwhile written to the Catholic estates to induce them to accept the two peace treaties. Similarly, as soon as the peace was signed, summaries of the contents of the treaties were quickly printed and shared among the various nations⁹³, leading to numerous discussions and well as celebrations for the reaching of an official end of the war.

⁹⁰ Krasner, Stephen D. *Compromising Westphalia*. *International Security* 20.3, 1995: 148.

⁹¹ Croxton, Derek. *Westphalia: the last Christian peace*: 364.

⁹² “On attend ici journellement les députez de Hollande, qui apportent la ratification du traite’ fait entre la Couronne d’Espagne e les Etats généraux. On dit aussi que l’Empereur a écrit aux Plénipotentiaires des Etats Catholiques pour les induire a hasepter la conclusion de la paix générale.” *Gazette de France*, December, 14 1647: 1224. Retrieved online at the French National Library.

⁹³ *Gazette de France*, January, 1 1648: 1541. Retrieved online at the French National Library.

This in-real-time coverage of the events is even more impressive if compared to the fact that newspapers, gazettes, periodicals and other forms of news divulgation were still at an infant state before the beginning of the Thirty Years War. With the first newspapers appearing in Europe only in the first decade of the 17th century, the production and distribution of news became extremely widespread by the end of the war, with historian Peter Wilson arguing that by 1648 15,000 copies of weekly papers were distributed around Europe, amounting for a readership twenty times bigger the distribution number⁹⁴.

Finally, it should also be remembered that the Peace ensured new religious rights to the population of the Empire, taking away some power from the Emperor and the rulers of the German Estates and ensuring a more thorough protection of the Protestant minority.

To conclude, Westphalia and its treaties should be read as part of a much longer historical process of political change in Europe, where diplomats, rulers and relevant actors met, discussed and tried to reach an agreement on some fundamental rules of international relations. Its congresses and talks certainly helped Europe to move towards a more modern concept of international relations, but nor its content nor its intent were per se revolutionary.

⁹⁴ Wilson, Peter H. *Europe's Tragedy: A New History of the Thirty Years War*: 852.

Part II – THE MYTHICAL WESTPHALIA

Chapter 4 – The Birth of the Eurocentric Myth of Westphalia

4.1 Introduction

If historically speaking the Thirty Years War and all the political interests at play were divided into five phases, the creation of the Westphalian myth in the field of international relations can be divided into two main moments, one starting from the 18th century and ending just after World War II and one that started to develop in the 1960s, reached its peak in the 1970s and then remained mostly consistent until today.

As seen in the historical reconstruction of the events that led to the Peace of Westphalia and in the analysis of the treaties' articles, the 1648 peace should not be considered the birth of the modern international society and the beginning of modern concept of sovereignty. One question may arise at this point: how did Westphalia become a symbol of change and of a new international society then? It goes without saying that although Leo Gross's 1948 article had a big impact on the many generations of scholars, its publication cannot be seen as the sole reason behind the creation of this origin myth of international relations. Following this reasoning, one might even question why this myth is still in place, considering the number of researches, articles, publications and books written to unveil its inaccuracy. In an attempt to answer these two questions, the following part of the research will analyse the myth of Westphalia to see how it was formed during the centuries (and how its narrative changed) and argue that its longevity in the field of international relations is due to the fact that Westphalia has proven to be able to adapt throughout the decades to accommodate the general narrative of the scholars. The myth of 1648, in few words, transformed its narrative to first accommodate the Eurocentric and imperialist views of the 19th century, and then de-historicized so as to survive its first critics and therefore entering the presentist phase of the myth.

Before analysing these two aspects by retracing the history of the myth of Westphalia, a more general introduction to concept of myth will first be introduced.

4.2 The Power of Myths

Since a big part of human existence centres around storytelling, myths have been part of our narratives and societies for millennia. Mythology is often described as a primitive form of explanation of the world and the universality of mythology has been described by Neo-platonic philosopher Sallustius' words that "myths are things that never happened but always are"⁹⁵. The fictitious interpretation of past events is so imprinted in human nature that myths are still present nowadays in virtually all academic disciplines in some form or other. In fact, our understanding of reality is never conclusive and many of us tend to search for a deeper meaning rather than accepting a more objective banality. In this sense, myths have been described by scholar Von Hendy as a "socially significant product of humanity's irrepressible urge to construct meaning"⁹⁶ that is "considered as true and valid within the shared consciousness of society"⁹⁷.

The uniqueness of myths, when compared to other forms of narration, lies in the fact that: (1) they are not a "a single narrative that is given once and for all, but [are] a process, a process of continual work on a basic narrative pattern that changes according to the circumstances"⁹⁸; and (2) they share the capacity of "bringing things closer to the group sharing them, [and] usually have the downside of driving people of different groups apart"⁹⁹.

⁹⁵ Sallust on the Gods and the World, and the Pythagoric Sentences of Demophilus. Translated from the Greek, and Five Hymns by Proclus, in the Original Greek, with a Poetical Version to Which Are Added, Five Hymns by the Translator [Thomas Taylor], London, 1793: 20.

⁹⁶ Work cited in De Guevara, Berit Bliesemann. *Myth in international politics: Ideological delusion and necessary fiction*. Myth and Narrative in International Politics. Palgrave Macmillan, London, 2016: 17.

⁹⁷ Beaulac, Stephane. *The Power of the Westphalian Myth in International Law*. R.V.P.S. Gama & W. Menezes (dir.), *Paz de Westphalia/Peace of Westphalia (1648-2008)*. Sao Paulo University Press, Sao Paulo, 2013, 13.

⁹⁸ Bottici, Chiara, and Benoît Challand. *Rethinking political myth: The clash of civilizations as a self-fulfilling prophecy*. European journal of social theory 9.3, 2006: 318.

⁹⁹ Work cited in De Guevara, Berit Bliesemann. *Myth in international politics: Ideological delusion and necessary fiction*. Myth and Narrative in International Politics. Palgrave Macmillan, London, 2016: 21.

In particular, the creation of a myth is an unconscious process which tries to provide a fictitious explanation of an event, and the aim of this subconscious reasoning is usually that of justifying a present situation through the (imaginary) lens of the past so that the false narrative can be seen as invulnerable to criticism¹⁰⁰. This result is achieved by selecting only certain aspects of the fact and ignoring those that do not flow with the general narrative, which are usually seen as irrelevant. By doing so, myths are therefore able to hide unpleasant tensions between values and principles that are not compatible, allowing scholars to create a version of the events that is more similar to the world they know and that does not offer internal contradictions.

This unique ability of myths led scholar Chiara Bottici to argue that a myth “is a sort of enchanted mirror in which scholars have found the objects with which each is most familiar¹⁰¹”. This reflection, that is seen as truthful, shows the enormous social power of a myth: in fact, while “the world supplies to myth [are] an historical reality, defined, even if this goes back quite a while, by the way in which men have produced or used it; [...] what myth gives in return is a natural image of this reality¹⁰²”. A myth, therefore, has the capacity of creating an imagine which seems both eternal and natural, giving the partial historical events that it represents a legendary status that is in the end much more extraordinary than the reality of the facts. A final important aspect of myths analysis that should be kept in mind while reading the following history of the creation of the 1648 myth is that these abstract constructs have the ability of hiding and concealing the truth by implementing small modifications of their narrative through the years¹⁰³, managing in this way to

¹⁰⁰ Buffet, Heuser, et al. *Haunted by history: myths in international relations*. Berghahn Books, 1998: ix.

¹⁰¹ Bottici, Chiara. *A philosophy of political myth*. Cambridge University Press, Cambridge, 2007:3.

¹⁰² Quotation from Beaulac, Stéphane. *The power of language in the making of international law: the word sovereignty in Bodin and Vattel and the myth of Westphalia*: 38.

¹⁰³ Olson, Alan M. *Myth, symbol and reality*. University of Notre Dame Press, Notre Dame, Ind., 1981: 56-57.

keep their façade of reliability and truthfulness throughout the decades. To summarise, we can argue that a myth goes through four stages of life: first, the myth is created and carefully framed in terms of which events it should include and which it should ignore. This narrative is then diffused by a number of reliable individuals, which act as storytellers, and is learnt by those who act as a public. In its third stage, the myth becomes part of the mainstream narrative and is therefore ritualised and accepted as true by the majority of the group. Finally, the myth become sacred, meaning the its narrative is now seen as essential to the group and is therefore perceived as universal and eternal, while in reality the myth slightly changes its narrative continuously to constantly meet the needs of the group.

It goes without saying that the field of international relations, perhaps because of its very same nature of abstracting daily events into models of analysis, is no stranger to adoption of myths and false narratives¹⁰⁴; and although the myth of Westphalia is perhaps one of the most confuted and yet still believed myths of the field, there are many others which are starting to be refuted only now¹⁰⁵, with the academia of international relations slowly starting to accept a discussion on which models of analysis are historically correct and which are not, signalling an healthy change in direction for the discipline.

In regards to Westphalia, a first explanation to the question “why is the myth of Westphalia still considered as true?” is it is that this particular narrative is a very special type of myth, an origin one. Scholar Stéphane Beaulac defined it a “aetiological myth”, arguing that these myths that

¹⁰⁴ See, for instance, De Carvalho, Benjamin, Halvard Leira, and John M. Hobson. *The big bangs of IR: The myths that your teachers still tell you about 1648 and 1919*. Millennium 39.3 (2011): 735-758.

¹⁰⁵ See for example Bottici, Chiara, and Benoît Challand. *The myth of the clash of civilizations*. Routledge, 2013; Hobson, John M. *The Eurocentric conception of world politics: Western international theory, 1760-2010*. Cambridge University Press, 2012; or Quirk, Joel, and Darshan Vigneswaran. *The construction of an edifice: the story of a First Great Debate*. Review of International Studies (2005): 89-107.

explain the causes and origins of our societies create also religious-like belief systems¹⁰⁶. Origin myths, in fact, are known to hold a vital place in our societies: they have the capacity to connect the past and present together, while allowing scholars (in our case) to fund their assumptions on a certain type of meaning that can justify the present times based on a “solemn, irrefutable” model that has become with time almost universal in belief.

The importance of cultural norms and (especially origin) myths is that they influence not only how decisions are taken in political contexts, but also what can be seen as appropriate to be politically regulated in the world¹⁰⁷. As a consequence, part of the resistance to the acceptance that Westphalia did not mark the birth of the modern international society is given by the fact that doing so would imply a complex debate on the values, culture and norms that influence international politics, devolving the discipline therefore of its acclaimed “neutrality”¹⁰⁸. This, however, is a broader issue of the field. Returning to our myth of Westphalia, the story begins around the 18th century, few decades before Imperialist Europe started to create a narrative of supremacy.

¹⁰⁶ Beaulac, Stéphane. *The power of language in the making of international law: the word sovereignty in Bodin and Vattel and the myth of Westphalia*: 35.

¹⁰⁷ De Guevara, Berit Bliesemann. *Myth in international politics: Ideological delusion and necessary fiction*: 88.

¹⁰⁸ *Ibid.*

4.3 From a Religious Westphalia To a Political One

For the first 150 years after its signing, the Peace of Westphalia was mostly understood in terms of religious freedom and territoriality, with the majority of Protestant states and societies declaring the year 1648 an important victory over Catholicism¹⁰⁹. Yet, these were also the years that marked a shift in the understanding of concepts such as the role of law in the context of the state, the interplay of sovereignty and territory, and the more general limits of natural law. As more and more scholars started to adopt a more pragmatical and less religious interpretation of the law, the first theories on the importance of the state and sovereignty started to emerge in a post-Westphalian Europe. And seeing that a number of these works have nowadays become the implicit foundations of the contemporary Westphalian narrative, it might therefore be useful to begin our research into the myth of 1648 with a brief introduction to the works of two renowned academics of that period.

Samuel von Pufendorf (1632-1694), in particular, was a German scholar who was born during the Thirty Years War. Known for having theorised a Protestant defence of the territorial concept of the state in his “Of the Law of Nature and Nations”, Pufendorf is the scholar behind the introduction of the notion of the state as a moral person, which he argued was created when a community claimed its supremacy over a territory and its citizens consented to have a sovereign authority. The importance of the introduction of the state as a moral person lies in the fact that the state was in this way seen as a separate entity that was detached from its government and was able to have its own will, although it needed some form of representation to act upon it. Pufendorf’s work can therefore be seen as a first step in forming a modern theory of political legitimacy that

¹⁰⁹ Derek Croxton in his “Westphalia: the last Christian peace”, writes that the peace was considered as a religious treaty for 250 years [page 351]. This statement, however, is misleading, as the research of this chapter will show.

is not based on religion¹¹⁰. This new interpretation was made possible thanks to Pufendorf's understanding of natural law: the scholar, in fact, argued that although natural law was a divine will that required people to associate together in a peaceful manner, it did not specify how, leaving the choice to mankind. As a consequence, sovereignty was not a divine, irrefutable concept, but a political one.

Additionally, Pufendorf is considered the first scholar to have theorised the concept of a system of sovereign states¹¹¹, famously writing when describing the structure of the Holy Roman Empire that:

“Germany is an Irregular Body {and like some misshapen Monster} [...] and that nothing similar to it, in my opinion, exists anywhere else on the whole globe>. [So that in] length of time, by the Lazy easiness [negligent indulgence] of the Emperors, the Ambition of the Princes, and the Turbulence [importunity] of the Clergy or Churchmen, from a Regular Kingdom it [has] sunk and degenerated [to that degree],e that it is not now so much as a Limited Kingdom, [...] nor[, exactly,] is it a Body or System of [many Sovereign States and Princes], knit and united in a League, but something [(without a Name)] that fluctuates between these two¹¹²”.

Westphalia, however, finds no space in Pufendorf's political reasoning, and the peace treaties were mentioned only in terms of religious freedom. In 1677, for instance, he wrote that the Westphalia peace led to a diminishing of the lands of the Churchmen in Germany, which in turn limited the

¹¹⁰ Carr, Craig, and Michael J. Seidler. *Pufendorf, sociality and the modern state*. History of Political Thought 17.3 1996: 356. 354-378.

¹¹¹Wight, Martin. *Systems of states*. Leicester University Press, Leicester, 1977: 20-24.

¹¹² von Pufendorf, Samuel Freiherr. *The present state of Germany*:176-177.

power of the Emperor, who now was forced to give more freedom to the (Protestant) estates¹¹³. Apart from this section, his works on the concepts of sovereignty and of the natural state, which would then go on to be widely read in many European nations, do not see particular references to the peace of 1648, nor to any role it may have played in the creation of a system of states.

Even more important to the development of international law and those concepts that are nowadays connected to the myth of Westphalia is the work of Emer de Vattel (1714-1767). Born in Neuchâte almost sixty years after the Peace, Vattel's legacy resides in the publication of "The Law of Nations" (1758), a treatise that has been widely translated, distorted and debated throughout the centuries¹¹⁴ and that is considered one of the first bridges between natural and positive law¹¹⁵.

In fact, although "The Law of Nations" is still founded on natural law, Vattel was able to introduce a number of legal norms that were essential to the creation of the modern concept of sovereignty and international system. For instance, he theorised in this book the concept of sovereign equality, which he explained as the fact that "each nation should be left in the peaceable enjoyment of that liberty which she inherits from nature. [...] [I]t exclusively belongs to each nation to form her own judgment of what her conscience prescribes to her, of what she can or cannot do – of what it is proper or improper for her to¹¹⁶".

Vattel's innovation, in particular, was in stating that sovereignty is two-folded: in fact, it is both internal, meaning that each state has the supreme authority over its territory, and external, meaning that the states recognise that they all have this right. External intrusion into a state's business is

¹¹³ von Pufendorf, Samuel Freiherr. *The present state of Germany*. Liberty Fund, 2012: 69-70.

¹¹⁴ Trampus, Antonio. *Emer de Vattel and the Politics of Good Government*. Springer International Publishing, Cham, 2020: 1.

¹¹⁵ Kayaoglu, Turan. Westphalian Eurocentrism in international relations theory: 198.

¹¹⁶ De Vattel, Emer. *The law of nations: or, Principles of the law of nature, applied to the conduct and affairs of nations and sovereigns*. T. & J.W. Johnson, Philadelphia, 1844 English edition: 58-59.

therefore unjustifiable (similarly to the principle of non-interference), unless that state violated the law of nature, in which case the other states had “a right to repress her¹¹⁷” (similarly to the concept of a balance of power¹¹⁸).

Similarly to Pufendorf, Vattel too put no special emphasis on Westphalia in his works: the peace is cited less than ten times in “The Law of Nations” and its significance is never tied to the concept of sovereignty. In the first part of his reasoning, Vattel spoke of Westphalia in terms of religion, writing that:

“[I]n treating of religion, in the first book of this work, we could not avoid giving several instances of the enormous abuses which the popes formerly made of their authority... Several popes have undertaken to break the treaties of sovereigns... The famous peace of Westphalia displeasing the pope on my account, he did not confine himself to protesting against the articles of a treaty in which all of Europe was interested: he published a bull, in which [...] he declared several articles of the treaty null, vain, invalid, iniquitous, unjust, condemned, reprobated, frivolous, void of force and effect; and that nobody was bound to observe them or any of them, though they were confirmed by oath¹¹⁹.”

In other passages, he quotes Westphalia when talking about the rights of states to send and receive public ministers, explaining how the princes and states of Germany have that right even if they are part of the Empire¹²⁰; or in relation to the recognition of the Swiss independence, writing that “[the

¹¹⁷ *Ibid.* 61.

¹¹⁸ Bring, Ove. *The Westphalian Peace Tradition in International Law: From Jus ad Bellum to Jus contra Bellum*. International Law Studies 75.1, 2000: 64.

¹¹⁹ De Vattel, Emer. *The law of nations: or, Principles of the law of nature, applied to the conduct and affairs of nations and sovereigns*. T. & J.W. Johnson, Philadelphia, 1844: 230. [Emphasis in the original]

¹²⁰ *Ibid.* 454.

Swiss] had not owned its authority [to the empire] for a long time before their independence was acknowledged by the emperor and the whole Germanic body, at the treaty of Westphalia¹²¹”. It is clear from this short passage that nor Pufendorf or Vattel pointed at Westphalia as the birth of sovereignty or of the international system, and that more broadly speaking the peace was only seen in religious terms in the 18th century.

The only shift in this vision and a first introduction to the “mythical” events of Westphalia in the 18th century was that of Jean-Jacque Rousseau (1712-1778), and his 1761 “A Lasting Peace through the Federation of Europe”, which can be considered the first popular writing to introduce the myth to a wide audience. Rousseau’s meaning of Westphalia, however, was different from that of the modern narrative: famously writing that “the Treaty of Westphalia will perhaps for ever remain the foundation of our international system¹²²”, the philosopher’s statement aimed at proving how Europe, seen as “a kind of whole, united by identity of religion, of moral standard, of international law; by letters, by commerce, and finally by a species of balance which is the inevitable result of all these ties¹²³”, could unify in a body of states. The importance of the events of Westphalia, according to Rousseau, lay in the fact that this peace treaty helped to maintain order within the Holy Roman Empire, the nation which was seen by the philosopher as the core of Europe. As a consequence, Westphalia was perceived as an extremely important event by Rousseau since it more or less solved the religious problem within the Empire, leading to a Christian co-existence. His reasoning, therefore, was clearly not universalistic in scope, and his publication was meant only in regard to Europe and the creation of a confederation of European states.

¹²¹ *Ibid.* 97.

¹²² Rousseau, Jean Jacques. *Lasting Peace through the Federation of Europe and The State of War*, trans. by C. E. Vaughan. Constable and Co., London, 1917: 6.

¹²³ *Ibid.*: 2

It would still take some time for the myth of Westphalia to fully form in the minds of European scholars, with the first apparitions of a political and legal mythical narrative only in the 19th century.

4.4 Europe's 19th Century Legal Positivism Turn

Few decades later after Rousseau's publication, another interesting political interpretation of the peace came forward. French philosopher Pierre Joseph Proudhon (1809-1865) wrote that the Westphalian peace was the cornerstone of modern sovereignty since it helped the European civilization break apart from the belief of universal monarchy. The philosopher stated that because of this incredible impact on Europe's history, Westphalia had "changed the course of civilization" and "will exist forever¹²⁴". Proudhon, however, did not explain how he reached this conclusion, arguing that he saw the Peace more as a principle than as an historical event.

The French philosopher is sometimes cited as one of the first sources that changed the narrative of Westphalia, but this is incorrect. The story of the myth of the political Westphalia did not start in France, but in Germany, when during the 19th century a number of German legal scholars tried to utilise the narrative of Westphalia to counterbalance the French Revolution and the following Napoleonic period by arguing that the French invasion went against a European system of independent states¹²⁵. The aim of these German scholars was that of legally justifying and safeguarding the traditional independence of their estates that was now being threatened by France, and to do so they tried to justify their rights by linking them to a legal treaty.

Their attempt to use a historical event as a justification of their rights was not coincidental: by the 19th century, the influence of natural law started to falter in Europe, and a growing number of scholars were now arguing that a new, more rational doctrine of law was needed. In fact, with the developments of the industrial revolutions, as well as the continuous scientific discoveries and the

¹²⁴ Croxton, Derek. *Westphalia: the last Christian peace*: 351.

¹²⁵ Keene, Edward. *Beyond the anarchical society: Grotius, colonialism and order in world politics*. Cambridge University Press, 2002: 26.

adoption of an empirical method in most disciplines, arguments such as that law should “conform to higher standards of justice and morality”, which were at the core of natural law, came to be seen as archaic and inaccurate¹²⁶.

In order to fully understand this shift of mentality, a brief introduction to British legal theorist John Austin’s command theory may help. Separating his analysis from the morality of natural law, Austin (1790-1859) wrote that “[t]he existence of law is one thing; its merit or demerit is another [...] A law, which actually exists, is a law¹²⁷”. According to him, laws were simply commands given by a sovereign, to whom the majority of the population answered to, and which were then enforced by sanctions¹²⁸.

More broadly speaking, with legal positivism fully entering the discourse of European law by the 19th century, a new perspective was introduced that saw legal positivists arguing that laws are socially constructed and that “what laws are in force in [a] system depends on what social standards its officials recognize as authoritative; for example, legislative enactments, judicial decisions, or social customs¹²⁹”. And as the state slowly started to be seen as the only legitimate source of law, Westphalia too started to be seen under a different light. In fact, if the state was seen now as the sole source of law, a new the justification for the validity of international law not based on morality was now needed. A number of jurists¹³⁰ tried to resolve the issue by justifying the importance of

¹²⁶ Mirabella, Daniel. *The death and resurrection of natural law*. The Western Australian Jurist 2, 2011: 251.

¹²⁷ De Pizan, Christine, and Kate Forhan. *Cambridge texts in the history of political thought. John Austin - The province of jurisprudence determined*, Cambridge, 1994: 197.

¹²⁸ *Ibid.*: 206-210.

¹²⁹ <https://plato.stanford.edu/entries/legal-positivism/>

¹³⁰ See, for instance, Wheaton, Henry. *History of the law of nations in Europe and America: from the earliest times to the Treaty of Washington, 1842*. Gould, Banks & Company, New York, 1845; Hall, William Edward. *A Treatise on the Foreign Powers and Jurisdiction of the British Crown*. Clarendon Press, 1894; Oppenheim, Lassa. *International law: a treatise*. Longmans, Green and Company, u.p., Third Edition 1920 [which then will be quoted by Leo Gross in 1948].

international law in an historical way. Westphalia, as a consequence, now came to be seen as an important milestone of international law, and the treaties functioned as evidence of the existence of an agreement between states to uphold religious and political tolerance. This treaty, therefore, represented the existence of a practice of formal contractual relations among the various European nations¹³¹. The treaties of Munster and Osnabruck were then seen as followed by other international agreements and treaties, which developed with time a Westphalian society of international law. In his “History of Law of Nations”, American jurist John Wheaton (1785-1848) wrote in 1845 that Westphalia opened a new era of international law in Europe, not only by establishing secularism and religious tolerance, but also by replacing customary law with a new law of Europe, which now was based on public law¹³².

As it can be observed, the beginning of this Westphalian construct saw no space for non-European states, which were seen in the 19th century as inferior to their European counterpart and as lacking the qualities necessary to enter the European international society. By adopting Westphalia as the starting point of a European international law, therefore, European states were finding a further justification for the “civilising” imperialism and colonialism that they were implementing. In fact, by the end of the 19th century, the European “political and legal thought [had fully] asserted the superiority of the European culture¹³³”, and, as a consequence, a belief that “inferior” civilisations, such as European colonies and other non-European states, had to conform to the superior European legal standards was now fully accepted.

¹³¹ Kayaoglu, Turan. *Westphalian Eurocentrism in international relations theory*. International Studies Review 12.2, 2010: 200.

¹³² Wheaton, Henry. *History of the law of nations in Europe and America: from the earliest times to the Treaty of Washington, 1842*. Gould, Banks & Company, New York, 1845: 71.

¹³³ Kayaoglu, Turan. *Westphalian Eurocentrism in international relations theory*: 204.

4.5 The Early 20th Century's New Interpretation

The 19th century view of a Westphalian international law system that was only limited to the superior European nations slowly evolved with the time. For instance, in 1904 English legal scholar John Westlake (1828-1913) wrote in his “International Law, Part I: Peace” that Westphalia played an important role in the creation of the modern international society. He stressed, however, that although this system was initially limited to European states, the model had grown through the times into an international principle that was also opened to non-European nations.

The opening to non-European states was not the only addition of the early 20th century myth of Westphalia. American historian and politician David Hill (1843-1910) wrote in 1905 that “[Westphalia is] the most important, and in its results the most enduring, public act of modern history, for from it dates the present political system of Europe as a group of independent sovereign states¹³⁴”, arguing however that those behind the Peace did not see their actions (or the treaties) as bearers of permanent change. Hill’s work was then famously quoted by Leo Gross in his 1948 article.

The importance of Hill’s citation lies in the fact that it shows how by the early 20th century the myth of Westphalia had changed. Scholars now argued that 1648 not only marked the birth of the international society, but also defined the creation of the modern concept of sovereignty. American lawyer Alpheus Henry Snow (1859-1920), for instance, wrote:

“To these conceptions of an organized society regardless of or inclusive of states and superior to states and persons for all or some purposes, was opposed the

¹³⁴ Beaulac, Stéphane. *The power of language in the making of international law: the word sovereignty in Bodin and Vattel and the myth of Westphalia*: 68.

conception, which became prevalent after the Treaty of Westphalia, of the civilized world as composed of a body of states wholly independent and only morally bound by such agreements as they might choose to make, for such time as they might choose to keep them; or at least so far independent as to be subject in their external relations to no law except that of natural reason and justice, each one interpreting this natural reason and justice according to its own ideas¹³⁵.”

As time went on, this new vision of Westphalia as the birth of the modern international system and of the modern concept of sovereignty came to be even more and more naturalised, to the extent that during the interwar period Westphalia started to be compared to the objectives and aims of the League of Nations. Helmer Rosting (1893-1945), a Danish diplomat, stated in 1923 that the two historical moments were not so different: “In accordance of the terms of the Treaty of Westphalia, all the signatory Powers undertook to defend each and every clause of this treaty, even by armed force [...] The principle of joint action and the acceptance of common responsibilities and guarantees which are contained in this treaty, in many respects evoke comparison with the Covenant of the League of Nations¹³⁶.”

American legal scholar Frederick Sherwood Dunn (1893-1962), who will be also quoted by Leo Gross in his 1948 essay, wrote that “[t]he principal of territorial sovereignty recognized at the Peace of Westphalia, both in political and religious matters, has continued up to the present time to be a fundamental postulate of the international jural system¹³⁷” and that “in the treaties of Osnabruck and Munster we have an example of collective action by the body of civilized states in

¹³⁵ Snow, Alpheus Henry. *Law of Nations*. American Journal of International Law 6,1912: 891.

¹³⁶ Schmidt, Sebastian. *To order the minds of scholars: The discourse of the peace of Westphalia in international relations literature*. International Studies Quarterly 55.3 (2011): 608.

¹³⁷ Dunn, Frederick Sherwood. *International legislation*. Political Science Quarterly 42.4, 1927: 577.

fixing by written instrument the political status of individual states - what was, in effect, the first faint beginning of an international constitutional law¹³⁸.” Yet, it would only be after the Second World War that a more modern, narrower definition of Westphalia would emerge and that the year 1648 would fully become the pillar of international relations that we know today.

4.6 The Importance of Westphalia after World Word II

One of the most famous myths of international relations is that the discipline was recognized as a distinct social science¹³⁹ only after the First World War, when the first chair of International Relation was funded at University of Wales after scholars, as well as politicians, finally understood the importance of studying international relations in an attempt to avoid another global war. Although the aim of this paper is not that of unveiling this particular myth, it is important to notice that from the 1930-1940s onwards the field of international relations saw a significant increase in publications as well as the formation of the first international discussions within the discipline. As a consequence, as more scholars and universities focused on the study of international relation, a more defined academia was established, and soon enough various attempts to pinpoint important moments of the discipline were presented in academic publications.

In fact, if by the 1930s the treaties had already come to be accepted as the beginning of the modern international society and international law, in the aftermath of World War II also a number of scholars of international relations started to put the Westphalian treaties at the centre of their attention. As seen, legal scholar Leo Gross (1903-1990), who will go on to be cited countless times by experts and manuals of international relations, argued that Westphalia “led to the era of

¹³⁸ *Ibid.*

¹³⁹ Mendes, Pedro Emanuel. *The Birth of International Relations as a Social Science*. Austral: Brazilian Journal of Strategy & International Relations 8.16, 2019: 19.

absolutist states, jealous of their territorial sovereignty to a point where international law came to depend on the will of states more concerned with the preservation and expansion of their power than with the establishment of a rule of law¹⁴⁰”. Gross’s thesis was that the Munster and Osnabruck peace treaties created an international society whose states valued their preservation and independence above everything else.

The same year also saw the adoption of Westphalia as the birth of the modern sovereignty by one of the most known schools of thought, realism. Morgenthau (1904-1980)’s publication of “Politics among Nations: The Struggle for Power and Peace” in 1948 saw one of the fathers of the school officially associating Westphalia with concepts such as “sovereign independence of nations” and anarchy, famously stating that with Westphalia “the rules of international law were securely established in 1648¹⁴¹”. Morgenthau’s publication can be seen as the moment that the also the field of international relations fully accepts the myth.

With the arrival of the 1950s, academics of both law and international relations started to add a new element to the myth of Westphalia: the principle of non-intervention. This notion is one of the most common norms of modern international relations, and it argues that sovereign states should never intervene in the affairs of other states, and is still uphold as valid nowadays. One of the first publications that saw this addition was that of American political scholar Quincy Wright (1890-1970), who in 1954 stated that the aim of the Westphalian treaties was that of removing religious ideas from international affairs by allowing the ruler of those lands to decide the faith of his subjects. According to the author, this decision was to be carried out without external interferences, leading Wright to argue that the treaties of Westphalia therefore implied the creation

¹⁴⁰ Gross, Leo. *The peace of Westphalia, 1648–1948*: 20 and 41.

¹⁴¹ Morgenthau, Hans J., Kenneth W. Thompson, and W. David. Clinton. *Politics among Nations: The Struggle for Power and Peace*: 293.

of the concept of non-interference within the territory of the states¹⁴². It has already been proven in the third chapter of this research that this was not the intent of the politicians behind Westphalia, but Wright's writing was vastly read and the myth revolving around Westphalia kept growing and expanding, to the extent that in 1957 the realist scholar John Herz (1908-2005) coined the famous description of the peace as "the great divide¹⁴³". With time, the signing of the treaties came to be seen as the landmark and a representation of the end of Medieval Europe and the beginning of the modern society, where states had full control over their territory and where relations were regulated by the principle of non-interference.

With the arrival of the 1970s and 1980s, the Westphalian narrative was also incorporated by another important current of international relations, the English School. Centred around the concept that a society of states exists notwithstanding the anarchy of the international system, the English school too chose Westphalia as the birth of the international society, with scholars Hedley Bull, Benedict Kingsbury, and Adam Roberts stating that in the opening of their 1984 book "The Expansion of International Society" that "The purpose of this book is to explore the expansion of the international society of European states across the rest of the globe, and its transformation from a society fashioned in Europe and dominated by Europeans into the *global* international society of today¹⁴⁴" and in their 1992 book that the "European origins of international society are a matter of

¹⁴² Wright, Quincy. *International Law and Ideologies*. The American Journal of International Law 48.4 (1954): 619.

¹⁴³ Schmidt, Sebastian. *To order the minds of scholars: The discourse of the peace of Westphalia in international relations literature*: 608.

¹⁴⁴ Retrieved at Hobson, John M. *The Eurocentric conception of world politics: Western international theory, 1760-2010*. Cambridge University Press, 2012: 223. [emphasis added]

historical fact. [...] The idea of international society, which Grotius propounded was given concrete expression in the Peace of Westphalia¹⁴⁵”.

¹⁴⁵ Kayaoglu, Turan. *Westphalian Eurocentrism in international relations theory*. *International Studies Review* 12.2 (2010): 206.

4.7 Conclusion

To conclude, the first phase of the history of the myth of Westphalia can be summarised as strongly characterized by a typical European attitude of European exceptionalism and Eurocentrism. Defined as “a paradigm for interpreting a (past, present and future) reality that uncritically establishes the idea of European and Western historical progress/achievement and its political and ethical superiority, based on scientific rationality and the construction of the rule of law¹⁴⁶”, Eurocentrism started to fully form from the 19th century onward, when Europe started to see itself as unique due to its perceived exceptional dynamism, rationality, scientific advances. With Europe being seen as the locus of the creation of international law and politics, the role that external and non-European actors played in the creation of an international society was vastly ignored, creating a narrative of “first the West, and then the rest¹⁴⁷”. This phase of the myth saw many attempts by scholars to rationalise the European creation of a Westphalian *international* society as a simple historical reality for roughly 120 years, with Bull and Watson, for example, still trying to justify this view by arguing that “[b]ecause it was in fact Europe and not America, Asia or Africa that first dominated and in so doing, unified the world, it is not our perspective but the historical record itself that can be called Eurocentric¹⁴⁸”.

It goes without saying that this vision of international relations is extremely biased: by adopting Westphalia as the birth of the international (intending global) society, these scholars implied that

¹⁴⁶ Maeso, Silvia Rodríguez, and Marta Araújo. *Eurocentrism, political struggles and the entrenched will-to-ignorance: An introduction*. Eurocentrism, Racism and Knowledge. Palgrave Macmillan, London, 2015: 1.

¹⁴⁷ Retrieved at Hobson, John M. *The Eurocentric conception of world politics: Western international theory, 1760-2010*. Cambridge University Press, 2012: 226.

¹⁴⁸ *Ibid.* 224.

the non-Western societies either adopted or were forced into the “superior” and “more rational” model of law and politics that was created by the exceptional European society.

Thanks to these and many other publications, this Eurocentric view (which has nowadays transformed into Western-centrism) was therefore able to naturalise and normalise itself both in international law and international relations, leading entire generations of scholars to adopt a narrative which was not only incorrect, but also deeply racially biased. This, in turn, led to the creation of a a-historical origin of the modern international society that is solely based on a linear recount of uniquely European (mythical) events, that was not questioned for a long time.

To conclude, in this first part of the history of the myth, the fictitious narrative of the peace treaties was used by academics and scholars to initially legitimise a new perspective of law based on positivism, and to then legitimise two other modern concepts, namely those of sovereignty and non-interference. As seen, the adoption of this narrative of Westphalia kept spreading through the generations of scholars, creating a deeply biased academic analysis of the current international world based solely on the Western perspective that somehow still lingers today.

Chapter 5 – The Apogee of Presentism

1. Introduction

If from the 1940s to the 1970s we saw a general academic rationalisation of the myth of Westphalia and its Eurocentric roots, from the 1970s onward we see a narrower, more de-historicised interpretation of the events of 1648, which eventually will prevail in the academic discussions. This shift in perception introduces the myth to what I argue is the second phase of its interpretation, this time based on one of international relations' most problematic issues, presentism. Defined as an “uncritical adherence to present-day attitudes, especially the tendency to interpret past events in terms of modern values and concepts¹⁴⁹”, the issue of presentism was already present in the myth of Westphalia, but it came to be fully and somewhat openly embraced only from the 1970s onwards, when the myopia of analysing international events under a European perspective started to falter in the academic discussion.

Before discussing the concept of presentism, however, it is first necessary to introduce the notion of collective memory. First theorised by Maurice Halbwachs in 1925¹⁵⁰, the term “collective memory” is mostly used to explain how individual memories cannot exist outside of a social framework. This framework, which plays an important role in our everyday lives, can be understood as “an implicit or explicit structure of shared concerns, values, experiences, narratives. The family, the neighbourhood, the peer group, the generation, the nation, the culture are such larger groups that individuals incorporate into their identity by referring to them as “we”¹⁵¹”. The

¹⁴⁹ <https://www.lexico.com/definition/presentism>

¹⁵⁰ Verovšek, Peter J. *Collective memory, politics, and the influence of the past: the politics of memory as a research paradigm*. *Politics, Groups, and Identities* 4.3, 2016: 535.

¹⁵¹ Assmann, Aleida. *Transformations between history and memory*. *Social Research: An International Quarterly* 75.1, 2008: 54.

identity of every group and subgroup is constantly reinforced through the construction of shared practices and discourses, giving a clear understanding of who can be included and who cannot. As a consequence, if a person wants to be part of a group, he or she has to accept its narrative and support the group's history. Scholar Aleida Assmann summarised this concept by writing that in this setting "[the] past cannot be "remembered"; it has to be memorized. Collective memory is a crossover between semantic and episodic memory: it has to be acquired via learning, but only through internalization and rites of participation does it create the identity of a "we"¹⁵².

The adoption of this mentality can therefore lead to a group's complete misunderstanding of a past event so as to push a certain narrative of a myth, with its individual members developing fictitious memories of instances they never lived through¹⁵³. Moreover, as academic Sontag proved in "Regarding The Pain of Others", all memory in per se individual and unreproducible since it dies with each person: what we see as collective memory is only a stipulation of what is considered important and of how the story went in our minds¹⁵⁴. In order to push for this false interpretation of the past, countless "archives of images"¹⁵⁵ are created within the group, which are then in turn associated with common, simple and well-established thoughts.

Generally speaking, the concept of collective memory is an essential part of our human nature and neither negative or positive. However, while in some instances collective memory might serve to frame important issues, it has to be remembered that in others it can be used (and abused) in a more strategical way, with some individuals trying to use it to legitimize certain actions and

¹⁵² *Ibid.*

¹⁵³ Davis, Joseph E. *Victim narratives and victim selves: False memory syndrome and the power of accounts.* *Social Problems* 52.4, 2005: 530.

¹⁵⁴ Sontag, Susan. *Regarding The Pain Of Others.* Hamish Hamilton, London, 2003: 86.

¹⁵⁵ *Ibid.*

therefore making them seem more truthful¹⁵⁶. For instance, a number of problems arise when a false narrative becomes prevalent in the discourse of an academic field (such as in those of international law and international relations) or in the accounts embraced by those institutions which are then able to influence heavily the general discourse.

As seen in past chapters, the field of international relations is no stranger to the concept of collective memory. In particular, this discipline is heavily characterised by a problem of presentism: in fact, although the choice of a scholar in regards to a topic of study may not be influenced by an explicit presentist view, his or her analysis of the event might be heavily based on the present political structures, leading to the use of modern models and constructs to explain past situations. And since the field of international relations is strongly linked to current events and politics, some scholars even go on to argue that the past should be studied so as to provide perspectives on the present and solve current issues¹⁵⁷, subconsciously accepting the fact that in this way the memory of the past might be manipulated by creating a false collective memory of an event, giving in to what scholar Said called the “urgent purposes of the present¹⁵⁸”. Methodological presentism, described by scholar Eren Duzgun as “the awareness that social and international theory tends to view the past in terms of the present, thereby naturalising and extrapolating back in time the structure and logic of the present international order¹⁵⁹”, always leads to an analysis of past events characterized by the presence of modern international hierarchies. In few words, international relations scholars, along with many other disciplines, tend to fall into the trap to write “history

¹⁵⁶ Verovšek, Peter J. *Collective memory, politics, and the influence of the past: the politics of memory as a research paradigm*. *Politics, Groups, and Identities* 4.3, 2016: 531.

¹⁵⁷ Elman, Colin, and Miriam Fendius Elman. *Diplomatic history and international relations theory: respecting difference and crossing boundaries*. *International Security* 22.1, 1997: 9.

¹⁵⁸ Said, Edward W. *Invention, memory, and place*. *Critical Inquiry* 26.2, 2000: 180

¹⁵⁹ Duzgun, Eren. *Against eurocentric anti-eurocentrism: international relations, historical sociology and political marxism*. *Journal of International Relations and Development* 23.2, 2020: 286.

backwards, [with the]...present theoretical consensus of the discipline[...]taken as definitive[...] [T]he past is then reconstituted as a teleology leading up to and fully manifested in it¹⁶⁰.” This is the abstract construct that we will use to analyse in this second phase of the myth, which starts with the publication of Richard Falk’s “The interplay of Westphalia and charter conceptions of international legal order”.

¹⁶⁰ Schmidt, Brian C. *The political discourse of anarchy: a disciplinary history of international relations*. Suny Press, Ithaca, 2016: 18.

2. A New Justification of the Myth

The 1970s saw the first attempts to fully abstract the concept of a Westphalian international system from its historical events mostly thanks to the works of the English School and the publication of legal theorist Richard Falk's paper "The interplay of Westphalia and charter conceptions of international legal order".

In his analysis, Falk, born in 1930, simply stated that "it is *convenient* to identify this conception with the Peace of Westphalia of 1648¹⁶¹" and reiterated in a later work that the use of Westphalia "had provided a defining threshold, of course, overgeneralized and simplified, but yet a convenient shorthand by which to situate the transition from the medieval to the modern¹⁶²". It was this open acceptance of a myth Westphalia as imperfect that helped the narrative of the 1648 peace treaties to continue: the more the historical part of the myth was ignored because it did not match the modern narrative of the concept, the easier it became to maintain the myth. As a consequence, Westphalia came to be seen in this second phase as "the principle of sovereign equality of states, which has been at the core of international law ever since¹⁶³".

Following this new change in the vision of the myth, the Peace of Westphalia (or its myth at least) became also incorporated by the constructivist school of international relations. One of the youngest schools of thought of the discipline, it is also one of the most critic ones, aiming at offering a different perspective of international affairs. Stating that different actors have different identities, and that these identities lead to different interests, it argues that "a priori and exogenous

¹⁶¹ Schmidt, Sebastian. *To order the minds of scholars: The discourse of the peace of Westphalia in international relations literature*: 618. [Emphasis added]

¹⁶² Falk, Daniel K. *Law in an emerging global village: a post-Westphalian perspective*. Brill Nijhoff, 1998: 4.

¹⁶³ Beaulac, Stéphane. *The power of language in the making of international law: the word sovereignty in Bodin and Vattel and the myth of Westphalia*: 193.

attribution of identical interests to states is invalid”¹⁶⁴. In few words, constructivism stresses the importance of ideas, historical events and various norms in the shaping of the international society. The school argues that different states, nations, and groups create different realities which are then used to analyse the world around us; and that international relations, therefore, are socially constructed through the interaction of state and non-state actors and are not an exogenous or eternal aspect of politics. Yet, constructivists as well adopted the myth of Westphalia in their discourses, with scholar Alexander Wendt (born in 1958) writing in his “Social Theory of International Politics that “in the particular culture of the Westphalian states system sovereignty is also a right constituted by mutual recognition, which confers on each state certain freedoms (for example, from intervention) and capacities (equal standing before international law) that only the most powerful states might be able to enjoy based on intrinsic properties alone¹⁶⁵”.

Moreover, although the various scholars of the constructivist school offer different perspectives on how the Westphalian international society came to be, Scholar Turan Kayaoglu argues that also this school tends to analyse the Westphalian order and other global normative changes in a Eurocentric way, stating that the school analyses “international norms like sovereignty, secularism, and human rights [as emerging] from the norm-generating European core, and then [diffusing] into the norm-receiving non-European periphery¹⁶⁶”, once again showing a subconscious analysis of the events based on both presentism and Eurocentrism.

As seen in Part I of this research, the Peace of Westphalia did not achieve any of milestones these scholars attributed to it, and the admission of Falk of adopting a sort of abstract construct of a

¹⁶⁴ Hopf, Ted. *The promise of constructivism in international relations theory*. International security 23.1, 1998: 199.

¹⁶⁵ Wendt, Alexander. *Social theory of international politics*. Cambridge University Press, Cambridge, 1999: 182.

¹⁶⁶ Kayaoglu, Turan. *Westphalian Eurocentrism in international relations theory*: 209.

“Westphalian state sovereignty” quite freely shows how international relations and international law scholars came to use this term with a completely made-up meaning.

This full embrace of an a-historical version of the myth of Westphalia and the reaching of an apogee of presentism in international relations created what scholar Sebastian Schmidt named the “Westphalian concept”, a well-established and well-defined analytical construct that has helped conveying specific ideas about the international system and subsequently about globalization and international interdependence¹⁶⁷.

This, I argue, is the reason for the longevity of the myth of Westphalia: by openly stating that the 1648 model can be used by academics of the field even with a “simplified” meaning, scholars were able to save the myth and shield it once again by the possible critics, since they had already admitted it was not perfect. As a consequence, from the realist school to the English and the constructivist one, the myth of Westphalia and its made-up implications helped shaping the future of the academic field of international relations thanks to its more or less openly-accepted presentist view of the Westphalia events.

¹⁶⁷ Schmidt, Sebastian. *To order the minds of scholars: The discourse of the peace of Westphalia in international relations literature*: 615.

3. Westphalia and the 21st century

By the end of the 1990s and the beginning of first decade of the 2000s, the world became more and more globalised: states entered into international organisations and agreements, national sovereignty became more and more fragmented, and international relations started to see the entrance of new non-state actors, such as international and non-governmental organisations, that were able to limit the power that states were used to have.

The principle of sovereignty came as a consequence under attack, and the Westphalian system, characterised by its state-centeredness, non-interference, centralised and secularised institutions, and the notion that states opt for a balance of power and the rule of international law¹⁶⁸, was now transforming into what is commonly called a post-Westphalian international system. Richard Falk, in his “Revisiting Westphalia, Discovering Post-Westphalia” wrote that there are various trends in the post-Westphalian world, such as “ the transition from “national security” to “human security” as the basis for governmental engagement in world politics; the insistence that states to be legitimate must be “nation-states” in an ethnically homogeneous or at least an existentially coherent community, rather than in a juridical sense; the obsolescence of international warfare and the adaption of some mechanisms for external accountability to ensure compliance with international human rights standards.¹⁶⁹”

The use of the word “Post-Westphalia” by institutions, scholars and politicians is a living testimony of the power that the myth of Westphalia still holds today, and shows how the adoption

¹⁶⁸ Moita, Luís. *A Critical Review on the Consensus Around the “Westphalian system”*: 34.

¹⁶⁹ Falk, Richard. *Revisiting Westphalia, Discovering Post-Westphalia*. *The Journal of Ethics* 6.4, 2002: 326.

of this false narrative led to the creation of not one, but two imperfect models of analysis of our society based on a fictitious analysis of events happened more than 300 years ago.

We have not entered a “post-Westphalian” phase. Change, especially in international relations, is never linear and the usage of these models of reference as true can lead to an impartial analysis of the world and of the various societies. Scholar Sebastian Schmidt summarised the problem of referring to Westphalia as is done nowadays by arguing that “The danger in specifically using the term ‘Westphalia’ to describe an imagined state of affairs [...] is that by its very name it appears to describe an order that is somehow tied to historical [and empirical] reality¹⁷⁰”, when in reality it is not.

Yet, Westphalia is still nowadays cited and studied by scholars and politicians, with world renown former U.S. Secretary of State Henry Kissinger stating for instance that “Westphalian principles are, at this writing, the sole generally recognized basis of what exists of a world order¹⁷¹” and that “when [the colonised] peoples began to demand their independence, they did so in the name of Westphalian concepts, [which]...proved effective arguments against the colonizers themselves during the struggles for independence and protection for their newly formed states afterward¹⁷²”, therefore continuing a narrative of presentism and European exceptionalism, which is seen as being passed to the rest of the world with time.

Even more, the adjective “Westphalian” has come to be used not only to describe the modern international society, but also to explain the approach to international relations of some states such as Russia and China, therefore analysing their foreign policy as part of a Western construct of

¹⁷⁰ Schmidt, Sebastian. *To order the minds of scholars: The discourse of the peace of Westphalia in international relations literature*: 618.

¹⁷¹ Kissinger, Henry. *World order*. Penguin Books, 2014: 11

¹⁷² *Ibid.*: 12.

analysis. Similarly, although no state has ever abided to a truly Westphalian model, since no state has ever had the ability to exercise such amount of control on its territory, the Westphalian system is being nowadays used as a reference by a number of more conservative scholars and politicians who argue for a return to a more “traditional” (although fictional) model of international relations. A clear example of it was an article written by neorealist scholar Stephen Walt after former President Trump’s victory, where the Harvard professor encouraged the President to adopt a more realist foreign policy by sticking to the Westphalian model of international relations. He wrote: “If Trump is looking for a unifying concept for his approach to foreign policy, it is the idea that states are responsible for their own territory and citizens and that other states shouldn’t interfere with either. This notion [of Westphalia] is consistent with Trump’s own “America First” mentality [...]. And it is hardly a controversial concept; indeed, it still forms much of the basis for existing international law¹⁷³.”

To conclude this brief and partial historical excursus, the fictitious construct of Westphalia, and nowadays of a Post-Westphalian international society, is still very much alive, notwithstanding the countless publications that discussed the effective importance of the peace of Westphalia and the dangers of adopting this Westphalian mentality, feeding in this way a deeply false and racialised vision of international relations.

¹⁷³ <https://foreignpolicy.com/2016/11/14/could-there-be-a-peace-of-trumphalia/>

4. Why has the Myth Survive For so Long?

So, why do we still believe in Westphalia? No matter how flawed, it seems unrealistic that field of international relations would purportedly still use the myth of Westphalia and of a Westphalian international society.

In fact, although many scholars have debunked the myth, as we will see in the next section, Westphalia is still able to overcome the general criticism. In their paper “The big bangs of IR: The myths that your teachers still tell you about 1648 and 1919¹⁷⁴”, De Carvalho et al. proved how virtually all textbooks of international relations still point to Westphalia as the birth year of the modern international society. Although published 10 years ago, their research still shows how cautious scholars are around the subject. For instance, if we follow their analysis and we look a textbook of international relations such as “The globalization of world politics: An introduction to international relations”, published in 2019, we will see that it states that “the sovereign, territorial state has an unrivalled position as the political community, but it only came to have this position as the result of a series of events and processes that began with the Treaties of Westphalia, [when]... states became the sovereign authorities within their own territories and in relations with each other¹⁷⁵.” Similarly, scholar Steve Lamy et al. in their 2020 “Global Politics” wrote that “the signatories of the Peace of Westphalia wanted to remove religion from European international politics¹⁷⁶”.

¹⁷⁴ De Carvalho, Benjamin, Halvard Leira, and John M. Hobson. *The big bangs of IR: The myths that your teachers still tell you about 1648 and 1919*. *Millennium* 39.3 (2011): 735-758.

¹⁷⁵ Baylis, John. *The globalization of world politics: An introduction to international relations*. Oxford university press, USA, 2020: 175

¹⁷⁶ Lamy, Steve Lamy, and John Masker. *Introduction to Global Politics*. Oxford University Press, 2016: 67.

The reason of Westphalia's longevity lies in the intrinsic change that the myth went through from the 1970s onwards; that is, its ability to fully elevate itself from its historiographical meaning and acquiring a distinct abstract definition, which is becoming less and less connected with the history of the Thirty Year's War. This alteration in the narrative unlocked a new era for the myth, since by making Westphalia "purely (or purposedly?)" abstract it seemed that the politics of Eurocentrism were removed and that the notion of the 1648 treaties was therefore apolitical.

By adding a partially new, less historical understanding of the myth, the scholars of international relations managed to fortify Westphalia in our modern understanding, creating in this way a version of the 1648 events that function as an eternal "mirror in which scholars [can find] the objects with which each is most familiar¹⁷⁷", namely a deeply, subconsciously radicalised Eurocentric vision of the world. This change in the vision of Westphalia and its meaning, which happened through a conscious debate starting the 1970s, generates a number of issues in the field of international relations that will be difficult to undo in the future. What is certain, for now, is that the myth of Westphalia still lives on.

¹⁷⁷ De Guevara, Berit Bliesemann, ed. *Myth and narrative in international politics: interpretive approaches to the study of IR*: 39.

5. The Opposers to Westphalia: The 1990s Debate and the First Challengers of the Myth

A first debate on the veracity of Westphalia within the field of international relations generated in the late 1990s and ended around 2005. With the fall of the Soviet Union and of the certainty of the “immutable” laws of the then prevailing realist school, a number of scholars started to study the field of international relations under a new light, and a number of publications starting to doubt the conventional interpretation of the events of Westphalia.

The first discussions about the actuality of 1648 were part of a moment of great debate and confrontation within the discipline that started in the 1980s and ended in 1990s¹⁷⁸. Called “the third great debate” by some scholars, these years saw an important number of academics discussions on a variety of issues, from the positivist aspect of the discipline to the role of fundamental ideal of knowledge. Of relevance for this paper is the fact that a new discussion was introduced on the role that language plays in the creation of reality, expanding in this way the limits of the field of international relations and introducing an important number of scholars to a new model of analysis¹⁷⁹.

These new perspectives soon led to the first appearances of papers on the 1648 Peace of Westphalia and the role it played in the shaping of international relations. One of the first introductions to an analysis of a peace seen as different from the mainstream view was that of scholar Rob Walker, who wrote in his “Inside/outside: international relations as political theory” that taking Westphalia as the starting point of the modern international society leads to a number of issues, such as that of seeing world politics in a very linear spatiotemporal perspective, when in reality changes

¹⁷⁸ Schmidt, Brian C. *The historiography of academic international relations*. Review of International Studies 20.4 (1994): 349.

¹⁷⁹ Balzacq, Thierry, and Stéphane J. Baele. *The third debate and postpositivism*. Oxford Research Encyclopedia of International Studies. 2014. (accessed online)

happen more fluidly.¹⁸⁰ The following year, Krasner wrote that the Westphalian model was not an precise construct of analysis for entities as complex as states¹⁸¹; while in 1999 Scholar Derek Croxton wrote that “[a] great deal of creativity is required to attribute sovereignty Westphalia in the way scholars have traditionally done. It is more reasonable to treat the negotiations at the congress [...] as an important and identifiable stage in the evolution of the state’s system towards sovereignty¹⁸²”. Through a deep historical analysis of the events, Croxton then concluded in his books “Westphalia: The Last Christian Peace” that the treaty did not lead to the creation of a new international system. One year later, Stéphane Beaulac argued that 1648 represented simply one case separate polities tried to gain more authority by obtaining greater independence¹⁸³. This article was then followed in 2001 by the publishing of Osiander’s famous essay “Sovereignty, international relations, and the Westphalian myth”. The scholar’s main arguments are that our modern concept of sovereignty does not generate back in the 17th century; that relations among the various, autonomous actors were taking place before the invention of the concept of sovereignty; and that the level of autonomy granted to the various players varied notably, arguing therefore that Westphalia did not create a system of equally independent states¹⁸⁴. However, in this paper Osiander wrote that he was “aware of only one outspoken IR critic of the standard view of the settlement, and even he seems to have gone back on his original, more resolute stance on the issue. [...] Stephen Krasner dismissed the alleged link between 1648 and the creation of the sovereign territorial state [...] but in his most recent book, Krasner writes that “the Peace of Westphalia was

¹⁸⁰ Walker, Rob BJ. *Inside/outside: international relations as political theory*. Cambridge University Press, Cambridge, 1993: 691.

¹⁸¹ Krasner, Stephen D. *Compromising westphalia*. *International security* 20.3, 1995: 115.

¹⁸² Croxton, Derek. *The Peace of Westphalia of 1648 and the Origins of Sovereignty*: 588.

¹⁸³ Beaulac, Stéphane. *The Westphalian Legal Orthodoxy-Myth or Reality?*: 175.

¹⁸⁴ Osiander, Andreas. *Sovereignty, international relations, and the Westphalian myth*: 284.

a break point with the past”¹⁸⁵. This passage clearly shows that the first challengers of the myth were very few and sparse, to the extent some of them were not aware of the work of the other scholars. As a consequence, this also implied that not many academics were able to read these dissonating voices, and that therefore the opportunity for a bigger discussion was lost.

A quite innovative criticism to the mainstream view Westphalia was brought forwards by international relations scholar Benno Teschke in 2003, when he analysed Westphalia under a historical-materialist perspective and reached the conclusion that the Westphalian system was characterised by “distinctly non-modern geopolitical relations between dynastic and other pre-modern political communities [...]”. He argued that “while these relations were competitive, they were determined neither by structural anarchy, nor by a new set of constitutive rules agreed upon at Westphalia, nor by exclusive territoriality¹⁸⁶”, linking the shift towards a more modern international society with a post-revolutionary England. As time passed, more and more papers started to be published in regards to the subject, to the extent that even if this view of the 1648 treaties is still a minority, it offers a richer and more interconnected literature, which is now starting to flourish.

¹⁸⁵ *Ibid.*:265.

¹⁸⁶ Teschke, Benno. *The myth of 1648: class, geopolitics, and the making of modern international relations*. Verso, 2003: 217.

Chapter 6 – Why Do Academics Accept the Myth of Westphalia?

1. Introduction

If the 1970s academia admission that the myth of Westphalia was convenient although not perfect helped to postpone a debate on the veracity of the narrative for almost 20 years, this presentist view does not explain why the myth is still considered valid nowadays, especially after the 1990s-early 2000s publications that debunked its claims.

As a consequence, if the two previous chapters analysed the story of the myth, how it changed throughout the decades and how it was able to counter its first critics, this chapter will provide a partial explanation to why Westphalia still holds as true in the field of international relations in the 21st century, trying to answer why scholars have not changed their perspective after the early 2000s publications that thoroughly analysed the myth and have by now been broadly read. In particular, the following pages will try to partially explain why the academia is still subconsciously choosing to continue a false narrative even when it has access to the correct information: in fact, although making errors is part of our very existence, and therefore analysing a past event in a biased way is not a problem as long as it is recognised, a number of issues arise when these incorrect interpretations become myths and part of collective memories that are simply accepted and never questioned.

In an attempt to provide a partial explanation to these points, this section of the mythical Westphalia will first analyse the problem of sources and the issue of time constraints for most scholars; will then present a psychological experiment that might help understand the mental structures that lie behind choosing to believe a myth; and will finally briefly dive into the problem of the biased education structure within the discipline. Before moving to the rest of the chapter,

however, it is essential to underline that these three problems are only a small fraction of the explanation to why individuals opt to believe myths and that more research needs to be conducted on the subject before we will reach a broader, more complete analysis.

2. The Problem of Sources

With the invention of the internet and the increase of global research, countless papers, essays, books, speeches and various publications have now become accessible to more and more scholars and students. At first sight, one might think that this vast quantity of information now available to most researchers would help experts and academics to analyse events at a more microscopical level and therefore create new and improved models, but along with the new opportunities that a more interconnected academia created also came some problems.

The biggest issue that scholars encounter in regards to the myth of Westphalia is that of sources. In fact, an important number of critical articles and books written on Westphalia argues that the myth of Westphalia spread so quickly because an important number of scholars and politicians trusted Leo Gross' 1948 definition¹⁸⁷. Gross was a well-known legal theorist, and his paper was published in the *American Journal of International Law*, a journal that is still quite well-known today within the discipline of international relations, has a five-year impact factor of 1.940, and has been described by Journal Store (JSTOR) as “the premier English-language scholarly journal in its field”¹⁸⁸. As a consequence, those critics that argue that the construction of the myth of Westphalia was perhaps just a problem of sources state that the scholars and then politicians of those times simply trusted a publication of a well-established and trustworthy journal.

The issue is that although this explanation provides an insight to why the academics of those times accepted the myth, it does not provide a clear answer to why a number of experts and institutions still stands by it today. In fact, if we consider that today the academia has a much broader pool of

¹⁸⁷ Osiander, Andreas. *Sovereignty, international relations, and the Westphalian myth*. International organization, 2001: 268; Croxton, Derek. *Westphalia: the last Christian Peace*. Springer, New York, 2013; Beaulac, Stéphane. *The power of language in the making of international law: the word sovereignty in Bodin and Vattel and the myth of Westphalia*. Brill Nijhoff, Leiden, 2004.

¹⁸⁸ <https://www.asil.org/resources/american-journal-international-law>

sources and testimonies of past events that it can analyse and utilise quite freely, this explanation does not clarify why Westphalia is still seen as the birth of the modern international society, nor why the perception of the peace treaties has not changed.

To partially answer these two very complex questions, two points will be introduced in relations to the problem of sources which may provide a first step in understanding why the myth still lives on and why scholars decide to trust the mainstream view.

The first argument deals with the fact that most scholars simply do not have enough time to do research, and, as a consequence, usually have to constrain their work into a certain number of days or months, meaning that they do not have the possibility to doublecheck every source (which no one could do) or get access to all primary sources. This was the case of the adoption of Leo Gross' paper as one of the most important publications on Westphalia: the two treaties are quite long and complex, their translation from Latin into the various languages is not always lexically correct (as seen in the third chapter), and getting access to the original documents is not very easy. As a consequence, scholars who work on seemingly reliable secondary sources (either because the author is a renowned expert; or the journal the paper was published in is trustworthy, etc.) in some cases have to undergo a leap of faith and consider them as truthful before moving on with their research. Having a higher pool of data and papers on the topic of Westphalia, moreover, does not implicitly mean that all the information is correct and reliable, making it seem to a number of scholars that sticking to the established narrative of the events is a good choice when writing papers. A second reason in relations to the sources to why the public perception of the Westphalian myth has not generally changed in the last 20 years is because although a great number of papers have been written emphasising the role the peace played in building the modern international society or criticising its role in doing so, the diplomatic history behind Westphalia has not been studied a lot.

In fact, although an important amount of historical research has been done on the Thirty Years' War, the actual peace congresses and the diplomatic efforts made to arrive at the signing of the peace treaties have not been investigated much. In publishing his book "Westphalia: the Last Christian Peace" in 2013, scholar Derek Croxton was one of the first academics (to the knowledge of the author of the book) to publish a work in English on the two peace congresses and the political issues that were discussed during those long years of complex negotiations. As a consequence, when trying to do research on the political implications of the treaties, scholars may not find a lot of sources, leading them back into the first point, which is trusting acclaimed publications due to time constraints.

3. The Lack of Collective Incentives

In their research on the adoption of myths by scholars and other educated members of society, academics Apolte and Muller conducted an experiment in 2018 based on the selection-task problem of psychologist Peter Wason. The aim of the experiment was that of analysing how the participants would use their deductive reasoning¹⁸⁹ by using a problem set created by Wason in the 1960s that offers an interesting insight (although partial) on how the human mind works. In fact, although the experiment simply asked the participants to prove a simple “if A then B” construct with cards, only a minority of them (figures rank from 8 to 15%) were able to find the right answer. The variation of the experiment that Apolte and Muller analysed was the following. Four cards were given to the participants, who were then told that each card has a number on one side and a number on the other. The four cards were placed in the following way: the first card showed the letter A, the second the letter G, the third the number 4 and the fourth the number 9. The participants were at this point asked to choose only those cards that needed to be turned to prove the following statement: “if a vowel is one side of the card, then an even number is on the other”. The cards that needed to be turned were only those showing the letter A and the number 9. A is a vowel and therefore proves the initial assumption that if there is a vowel there is an even number on the other side. In regards to the number 9, this card has to be chosen to prove the veracity of the supposition: since 9 is not an even number, then there should not be a vowel on the other side. The reasoning of the experiment was the following: “If A then B” and “if not B then not A”. The uniqueness of this experiment was that Wason’s results showed how the majority of the testers did not reason rationally, for instance assuming from “If not A then B” that the following card should prove “if not A then not B”, which he called the “denial of the fallacy” (in this case

¹⁸⁹ Apolte, Thomas; Müller, Julia. *The dynamics of political myths and ideologies*. Westfälische Wilhelms-Universität Münster, Centrum für Interdisziplinäre Wirtschaftsforschung (CIW), 2019: 6.

would be picking the card with the letter G). Another mistake, which was made by a minority of the participants, was that of arguing that “if A then B” could be proven by “if B then A”, a mental construct that Wason named an “affirmation of the consequent fallacy”. A broader explanation of this experiment can be found in Apolte and Muller paper, and a deeper analysis can be found in Wason’s famous 1968 paper “Reasoning About a Rule¹⁹⁰”; but it is important to remember that like any other experiment that centres around the human mind we should not see these findings as universal or 100% precise. Two publications, one in 2018 and one in 2019¹⁹¹, proved its flaws and issues, such as the fact that the experiment becomes much easier for the participants when it involves a social rule that the participants are well acquainted with, such as “if a person drinks alcohol, they must be over 21”, or more detailed instructions are given.

For the purposes of this research, what is important, setting aside the technicalities and the percentages, is that a very small minority of participants are usually able to select the two correct cards when presented with an abstract proposition such as “If A then B”. In particular, the relevance of these findings lies in the fact that they proved the existence of a very widespread “hardware error¹⁹²” in the human brain, meaning that (theoretically speaking) the majority of people tend to fail on a daily basis at reasoning logically on certain abstract or less known concepts. This mistake was then studied and explained in the following decades, and a 2011 work of scholar Stanovich argued that when trying to answer the abstract question of the experiment we usually work through two processes: the first is “system 1”, which deals with selecting the relevant

¹⁹⁰ Wason, Peter C. *Reasoning about a rule*. Quarterly journal of experimental psychology 20.3, 1968: 273-281.

¹⁹¹ These two publications are Kellen, David, and Karl Christoph Klauer. *Theories of the wason selection task: A critical assessment of boundaries and benchmarks*. Computational Brain & Behavior, 2019: 1-13; and Ragni, Marco, Ilir Kola, and Philip N. Johnson-Laird. *On selecting evidence to test hypotheses: A theory of selection tasks*. Psychological Bulletin 144.8, 2018: 779-796.

¹⁹² Apolte, Thomas; Müller, Julia. *The dynamics of political myths and ideologies*: 13.

information and is a subconscious process that is both effortless and intuitive; while the second process, namely “system 2”, revolves around a “sort of rational deliberation¹⁹³” that involves more effort but involves fewer errors¹⁹⁴. As a consequence, if “system 1” is an intuitive, subconscious choice that encounters a number of difficulties, “system 2” should come to support “system 1” when problems arise and solve them¹⁹⁵. This, however, does not happen in every case, since employing “system 2” requires a certain amount of effort that would tire the human mind terribly if constantly applied.

Apotle and Muller’s experiment added one incentive to Wason’s four card’s problem. After having divided the participants into four groups, they provided monetary rewards for three of them. In the first group, they offered no monetary rewards; in the second, they offered 10 euros if the participant answered correctly; in the third, 100 euros; and, in the fourth, 100 euros if two thirds of that group participants gave the correct answer, allowing the group to discuss the various possibilities¹⁹⁶. The highest percentage of correct answers was given in the third group, where individuals had a high, individual incentive, while the lowest score was that of the fourth group, the collective one. Moreover, the study found that although there was no time limit, all groups took only around 20 minutes to answer the question.

The conclusions of the study showed that individuals tend to have an incentive at analysing and reassessing “system 1”, their intuitive reasoning, only if there are some high stakes, and that collective incentives do not raise an individual’s efforts. And because of this lack of incentives,

¹⁹³ *Ibid.*: 17.

¹⁹⁴ See Stanovich, Keith. 2011. *Rationality and the reflective mind*. Oxford University Press, Oxford, 2011 for a more complete explanation.

¹⁹⁵ *Ibid.*

¹⁹⁶ *Ibid.*: 15.

the participants of the fourth group rather than challenge their first assumption spent more time rationalising it, therefore not reviewing their “system 1” analysis.

The importance of this model of analysis in trying to explain why the minds of scholars and politician still accept the Westphalian construct is that it shows how we tend not to question our intuitive reasoning process unless we have an incentive to do so, and as a consequence, we can argue that the Westphalian myth has been challenged only by a number of experts because of the lack of incentives.

As seen in the previous two chapters, throughout the centuries the mythical construct revolving around the year 1648 became one of the most important norms of international relations, and although this research does not touch on the importance of the myth outside the discipline of international relations, it has to be underlined that Westphalia plays an important (sometimes even vital) role also in other fields, such as that of international law and political science. In fact, it may even be argued that the myth of the peace of Westphalia has become one of the pillars of our modern international society, to the extent that it has been used by non-European nations to oppose international interventions within the territory of a state, who stated that those plans went against the *fundamental* norms of non-interference and sovereignty¹⁹⁷.

As a consequence, a second point to make when trying to understand why the Westphalian myth is still supported by an important number of academic institutions, international organisations, scholars and other entities is that they simply do not have the incentive to review their “system 1”

¹⁹⁷ For instance, in a 2001 joint statement, Russia and China wrote that “Russia and China will make joint efforts to strengthen the leading role of the UN and its Security Council in world affairs and counter attempts to undermine the fundamental norms of the international law with the help of concepts such as ‘humanitarian intervention’ and ‘limited sovereignty.’” Quoted in Campbell, Polina. *The Role of International Organisations in the Russia-China Relationship*. Culture Mandala 12.1, 2016:19.

intuitive beliefs. This then leads them to marginalise or ignore the critical papers published on the 1648 events, in a similar way to what happened in the Apolte and Muller experiment where the group that was given the possibility to discuss about the possible answers saw the majority of the participants marginalise the minority view and not considering it since it went against their intuitive, subconscious perspective, which they argued in favour of.

A clear example of this mentality was Richard Falk's argumentation in favour of the myth by stating that although imperfect, the model of Westphalia "had provided a defining threshold, of course, *overgeneralized* and *simplified*, but yet a *convenient* shorthand by which to situate the transition from the medieval to the modern¹⁹⁸", therefore trying to rationalise the intuitive and subconscious error in the "system 1" phase a number of generations of academics have done.

¹⁹⁸ Falk, Daniel K. *Law in an emerging global village: a post-Westphalian perspective*: 4. [Emphasis added]

4. The Silenced Debate of International Relations

A final (although still partial) reason to why Westphalia is still implicitly accepted nowadays, or perhaps it is better to say still subconsciously accepted, by an important number of institutions and scholars is that the field of international relations still tends to form its students and experts according to a Euro and Western-centric model of education. In fact, although an important number of publications¹⁹⁹ has opened (and sometimes forced) an essential discussion on the role of race, Eurocentrism, Western-centrism and post-colonial studies in the field, the Eurocentric and Western-centric roots of international relations have proven quite resistant to change.

It may seem at first strange to talk of a deep attachment to Euro and Western-centrism in the general field of international relations, and one might even argue that this is not the case anymore, especially after the 1990s contributions of constructivism and the introduction of post-colonial studies. Yet, a strong Eurocentric vision of international relations is still present, and this perspective has contributed to shaping a discipline that, although it claims to be now expanded to the study of geographical realities outside of the West, still centres around the adoption of “a European consciousness²⁰⁰”. This consciousness, which lies at the very core of the discipline, still teaches its students that the West (and in particular Europe) is the home to the majority of those ideas, developments, and discoveries that are then central to the construction of models and analysis of international relations. As a consequence, the introduction of a post-colonial analysis starting from the 1990s and the discussion of race and of non-Western international relations has

¹⁹⁹ See, for reference, Buzan, Barry, and George Lawson. *The global transformation: history, modernity and the making of international relations*. Cambridge University Press, Cambridge, 2015; Bilgin, Pinar. *How to Remedy Eurocentrism in IR: A Complement and a Challenge for the Global Transformation*. *International Theory* 8, 2016: 492-501; Grovogui, Siba. *Beyond Eurocentrism and anarchy: memories of international order and institutions*. Springer, New York, 2006.

²⁰⁰ Bilgin, Pinar. *How to Remedy Eurocentrism in IR: A Complement and a Challenge for the Global Transformation*. *International Theory* 8, 2016: 495.

proven in reality quite fruitless to the discipline since these events have been analysed by the mainstream institutions through the adoption of those traditional tools of analysis and models which belong to a Euro and Western-centric mentality. In particular, this problem is seen in most standard textbooks of international relations, which first present Westphalia as the birth of the modern international society (as seen in the previous chapter), then introduce the typical Western constructs and teachings to the students, usually providing examples of how to analyse the world according to these models, and eventually discuss post-colonial and racial studies as part of one or few marginal chapters.

As a consequence, and therefore returning to our analysis, another reason to why a significant part of institutions and scholars still see the myth of Westphalia as intuitive and reliable, or as quite reliable even when they acknowledge its precariousness, is that their education was mainly acquired through the adoption of Western-centric tools and models of analysis. This vision of the world, which they usually gained while students, is so strong that it is oftentimes able of framing their individual researches as well, creating a Euro and Western-centric identity in many academics of which most are only partially aware of.

Even more, this Eurocentric and presentist mentality has not diminished with the advent of globalisation. In his 2006 “Beyond Eurocentrism and anarchy: memories of international order and institutions”, international relations expert Grovogui wrote that in the aftermath of the fall of the Soviet Union:

“the post-cold war era bequeathed [...] to the world a single superpower, one political and moral imaginary, and an equally unflinching drive to incorporate all political entities within a single moral ambit. [...] It left little room for ideological dissent, cultural pluralism, political initiatives, and economic experimentations.

Canon makers and trendsetters deliberately skirted examination of the structures, processes, and rationales that guide the foreign policies of existing liberal states. For most, the collapse of the Soviet Union vindicated U.S. and European foreign policy rationales and doctrines²⁰¹”.

If the discipline saw the opening of a proper debate on the veracity of the myth of Westphalia, it should prepare itself for another discussion on the very structure of the discipline and its models of analysis, such as its predominantly Western schools of thought and vision of the international society. This would then lead to institutions and scholars being at a partial loss of structures of analysis until a new paradigm is found. The adoption of Westphalia as the birth of the modern society by most textbooks, universities and institutions, therefore, can be seen as a part of the answer to why the myth is still held as true.

It may seem that this argument is too extreme: at the end of the day, even if we are taught specific models of thinking, scholars, experts and politicians are still able to overcome them and foster a more balanced approach to the discipline. This is true, but it is not an easy process: going against what we are taught and construct a theory that is impartial to those beliefs is not an easy feat, and the experts who criticised Westphalia at the end of the 1990s and early 2000s prove this point. In fact, after historically proving how the 1648 treaties did not lead to the creation of the modern society or the modern concept of sovereignty, a number of them went on to suggest other dates which could be seen as more suitable for the task. Osiander, for example, wrote in his critical analysis of Westphalia that “the most significant transition occurred with the French Revolution and the onset of industrialization, not with the Peace of Westphalia. As the nineteenth century

²⁰¹ Grovogui, Siba. *Beyond Eurocentrism and anarchy: memories of international order and institutions*. Springer, New York, 2006: 3.

wore on, the international system owed less and less to its antecedents in the ancien regime because industrialization caused its ongoing and ever more radical transformation²⁰², linking the creation of a modern international system once again to uniquely European events and ideas. International relations theorist Benno Teschke, instead, argued that the birth of the modern international relations is to be found in England during its capitalist and state-formation period²⁰³.

Both of these alternative dates focus solely on Europe and European history, leading to an analysis of when a European international system was born, and not of when a global, truly international one was established, therefore still partially feeding the biased vision that Europe was the creator of the concept of sovereignty and of the international society due to its exceptionality. These two analyses, which leave out non-European actors, show therefore the power of education and of the naturalisation process of Euro and Western-centrism in the field, which is attested by its ability to somehow find its way even in those critical scholars of the myth of Westphalia.

To conclude, therefore, a third possible explanation to why experts, scholars and students accept the myth of Westphalia even nowadays is that they were formed according to a Euro and Western-centric education that limits even more their ability to question their “system 1” intuitions. By being formed according to general Eurocentric views, these scholars have come to accept certain concepts as natural and universal, even if slightly imperfect, and did not spend much time to actually think about them and decide whether to actively accept them or not.

²⁰² Osiander, Andreas. *Sovereignty, international relations, and the Westphalian myth*: 281.

²⁰³ Teschke, Benno. *The myth of 1648: class, geopolitics, and the making of modern international relations*: 249.

5. Conclusion

The aim of this chapter was that of providing three possible (although partial) explanations to why the myth of Westphalia continues to be accepted by various academics and experts of international relations. In fact, although it is important to highlight that no field of research can be perfectly neutral and that no scholar or expert is able to adopt a stance that is completely detached from his or her academic, linguistic and cultural background, it is also vital to show how institutions and academics come to accept certain myths and false narratives without questioning them.

In the case of Westphalia, we saw how three intertwined concepts created a perfect storm for the myth to continue to thrive in the 21st century: the first being the lack of time of scholars to question the veracity of each and every source they utilise; the second being a subconscious structure in our brain that leads us to question certain assumptions that we see as intuitively true only when there are perceived high stakes and that leads us to rationalise our common intuitive mistakes when in a group setting; and the third being a Euro and Western-centric bias so deeply radicalised in the knowledge production and theorisation of the discipline that it is oftentimes hard for individuals to see it or even question it.

General Conclusion

With the conclusion of this second part, the analysis of the myth of Westphalia can also reach its end. Before doing so, however, I would like to stress that the decision to research both the historical and the mythical versions of Westphalia was not made in an attempt to prove the superiority or the higher quality of history and historiography over international relations. The fields of history and international relations both hold different aims and both use different approaches, making any comparison aimed at finding which one is the most “correct” science completely invalid. Moreover, it is also important to remember that even the field of history, like every other field of research, deals with a number of myths and false narratives. For instance, the discipline is only now dealing with its Eurocentric past, and the concept of a “world history” has fully developed only in the last 30 to 20 years.

The reason behind the choice of analysing both the historical events that led to the treaties and the myth that was then constructed around them was simply made so as to show how far-fetched the latter became compared to the first and how it slowly started to fully detach itself from its historical events. To do so, I believe an historical analysis was needed as part of the reasoning process, since, without it, the myth of Westphalia may not have seemed as unrealistic as it does when compared to the facts of the past. Furthermore, this comparison was also helpful to highlight how the field of international relations, which is the focus of this research, presents tendencies of both presentism and Western-centrism that, if continuously ignored, will lead in the future to a number of problems for the discipline.

Moreover, although it is true that using historical analogies to create models of analysis of international relations may generate a number of issues, this does not mean that creating a

presentist model of analysis and giving it a historical and universalist meaning creates no problems; and it was the adoption of this faulted narrative that led to an academic myopia that has left academics unable to understand contemporary political change.

The inability of the discipline to responding to historical shocks, such as that of the end of the Soviet Union's counterbalance to the United States, has then led a number of scholars to the publication of books such as that of Fukuyama, where he argued that we had reached the end of history with the 1989 and 1992 events, as if world history and world politics only centred around two Western powers. A perhaps even clearer example of the necessity of a more historical approach in creating models of analysis is that of the theory of the existence of a "clash of civilisations". At first critiqued by the academic world, Samuel Huntington's theory slowly became a common construct through which events were analysed, starting from the examination of 9/11, and then moving to the explanation of the terrorist attacks in Europe in the 2010, and the populist shift in many Western democracies. This model, however, does not reflect the reality of the historical events, and as the initial critics of the model argued, a clash of interests among some powerful groups may be a better way to analyse the current events²⁰⁴.

The impressive number of myths present in the field of international relations perhaps shows the complexity and difficulty of abstracting state policies and international events into intellectual concepts. The issue, however, is that these false narratives risk becoming self-fulfilling prophecies which then influence future generations of scholars, such as in the case of the clash of civilisations. This problematic is also present in our case: if we take for correct that the peace of Westphalia led to the creation of an international society based on the norms of sovereignty, balance of power and

²⁰⁴ Bottici, Chiara, and Benoît Challand. *Rethinking political myth: The clash of civilizations as a self-fulfilling prophecy*: 322.

non-intervention, and we believe that this structure of international relations has not changed for over 340 years until the 1990s when we eventually entered a new post-Westphalian era, we create a static, universalist and extremely tight model that is not be able to explain the changes that the world has undergone during the last three centuries. And, when this fictitious model does not hold anymore, we then have to create another construct based on it, such as the existence of a post-Westphalian society, to explain its failure.

The reality, however, is that we are not living in a post-Westphalian era, and that more generally speaking international politics and relations should never be analysed in a linear (or geographical) way. In the past 370 years, states and various actors all across the world have changed, evolved, adopted new structures of power, entered into international agreements and organisations, and have kept experimenting which form of government and diplomacy works better. Accepting Westphalia as the birthmark of the modern international society and arguing that it was 370 years ago that the norms of the international society were created greatly limits the work of scholars and politicians and significantly reduces the support the discipline can give to policymakers by ignoring 370 years of trials and changes in the international sphere.

Similarly, accepting the myth of Westphalia also means accepting that globalisation and a post-Westphalia era are constructs that more or less appeared of the blue. The acceptance of the existence of these two distinct periods of international relations (one Westphalian and post-Westphalian), however, shadows many important events and political experiments of governance and coexistence that led to the present structure of the world, which, if studied, could in turn help us find solutions to the challenges we are now facing.

Generally speaking, the necessity for a better communication between international relations and history is not a new debate, and in arguing for a better understanding of history so as to create

better models of international relations, scholar Arthur Gilbert quoted in 1968 philosopher and sociologist Ortega Y. Gasset, who wrote that “[g]enerations stand on each other's shoulders like acrobats in the circus making a human tower. Rising one on the shoulders of another, he who is on top enjoys the sensation of dominating the rest; but he should also note that at the same time he is the prisoner of the others²⁰⁵”. Studying international relations in a more historical way would therefore give us the ability of understanding where the complexity and plurality of the contemporary world come from, helping us to therefore create more solid theories and systems.

In conclusion, I believe that revisiting the myth of Westphalia, and more generally opting for a more accurate reconstruction of history as an essential part of international relations, would give the discipline a unique opportunity: not only it would help the field to get rid of its Western-centric and presentist bias, but it would also help it to free itself from its incorrect models of analysis so that it could finally open the door to a world of perspectives, researches and discussions that would help the discipline to become truly international not only in its name, but also in its meaning.

²⁰⁵ This is a quotation from the book of Ortega Y. Gasset, *Man and Crisis*. W. W. Norton, Inc., New York, 1962: 53 that was cited by Gilbert, Arthur N. *International Relations and the Relevance of History*. *International Studies Quarterly* 12.4, 1968: 351-359.

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