The Sovereign State in the 21st Century:

Some Implications of Economic Globalization

and

New Technologies for Political Organization

by Bradley D. Williams

College Scholars Senior Project
April 24, 1998

Committee Members
Dr. Jeffery Berejikian – Supervisor
Dr. Robert Peterson
Dr. Paul J. Pinckney
Dr. Jack Reese

Few observers of the present age would deny that the world is in a period of flux and change. Their theories and opinions regarding the extent and direction of change, however, are more accurately characterized as cacophony than structured debate. When the Berlin Wall fell in 1989, so too did a nearly half-century old understanding of geopolitics. Statesmen and scholars of all stripes were befuddled by the sudden and unexpected disappearance of the Soviet bloc. That we define the present age - "the post-Cold War era" - in relation to the past is indicative of the theoretical vacuum that prevails today. The truth is that we are not at all sure how else to label it. Left bereft of old certainties to aid them in discerning what shape the emergent order might take, an optimistic few recklessly heralded the dawn of a "new world order," the "triumph of democracy," and the "end of history." This became the "unipolar moment."

But though some champions of old polar and balance of power models persist in interpreting the international system along neorealist lines[1], there is a vague sense - in scholarly, business, and policy circles - that the momentous crash of the Wall marked something more than the end of communism. What if, absent the structural rigidities of a bipolar world, the rules of the game are finally being allowed to change? It increasingly seems as if the world is rapidly outgrowing its old institutions. In many cases - Somalia, Liberia, Rwanda, Afganistan, and Bosnia to name a few - it is becoming ever more doubtful that those institutions ever really worked to begin with.

---

[1] A perfect example of this blinkered view of the future is a recent article that appeared in *The Economist*: "The Next Balance of Power: A geopolitical detective story," *The Economist* 3 Jan 1998: 17-9

Central to any discussion of the future of international relations are questions about the changing nature of the modern state and the anarchic international system it perpetuates.[2] Upon first glance, the modern state would appear to have reached its zenith. The twentieth century has seen the globe's six habitable continents and its multifarious isles partitioned into distinct political territories with clearly demarcated borders. For the first time in history, little of the earth's land – no matter how barren and inhospitable – remains unclaimed and unadministered by some state or another. Moreover, the principle of territorial sovereignty, whereby each state makes an internationally accepted claim to both the internal and external sovereignty of their respective governments, has been enshrined in the United Nations as the foundational principle of the international system. Within, their authority is legally indisputable; without, each is the legal equal of every other.

That world political geography should resemble a jigsaw puzzle might have seemed fantasy only 150 years ago. It was only following World War I that the system of states born on the European continent began to spread and take root in the rest of the world. To wit, only 62 states were recognized worldwide on the eve of the Great War.[3] Today their number has burgeoned to 193. The state would seem to own a virtual monopoly on legitimate forms of international political organization. Judging by their rampant proliferation over the past half-century, today might well be characterized as the crowning moment of the state. And yet, oddly enough, not a few scholars, including those with very divergent opinions and agendas, have been forecasting its demise for several decades. Despite the condescension with which those prognostications have often been met, the debate has refused to die. Quite

---

[2]This paper avoids the use of the term "nation-state" for obvious reasons. A recent study of 132 states concluded that only 9% are ethnically homogenous while a whopping 72% have significant ethnic minorities. in Howard Handelman, *The Challenge of Third World Development*, Upper Saddle River, NJ: Prentice Hall, 1996. p. 51

to the contrary, arguments promising the "eclipse," "waning," or "twilight" of sovereignty have gained great currency in recent years so that to note how trite talk of the obsolescence of sovereignty and national markets has become has itself grown commonplace. The notion has had such staying-power, in fact, that one begins to wonder if perhaps, born a little prematurely, it has not finally come into its own.

* * *

But just what is this thing we call the State and what are the various nuances in which it has found expression? Some scholars maintain that the State[4] as concept lacks sufficient descriptive power to be useful as a theoretical tool. Yale Ferguson and Richard Mansbach have posited that the State is really too nebulous an entity to be translated into theory, citing some of the more than 145 different meanings and functions of the word in support of their argument.[5] Such a position, however, would appear extremely debilitating to the enterprise of international relations, given that the State is the discipline's foundational independent variable. The purpose here is not to become embroiled in an abstract debate over semantics but rather to give an adequate working definition of our subject.

In the broadest sense of the word, a State might be defined as "a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory."[6] The title of this paper, however, makes reference to the "sovereign state," which is far more temporally and culturally specific a political unit. Sovereign states are distinct from other states in that they control "multiple, contiguous regions and their cities by means

---

[3] "Not quite a new world order, more a three way split," *The Economist* 20 Dec 1997 p. 41
[4] I use "State," in capital form, to denote the entity in its more general sense.
[5] Yale H. Ferguson and Richard W. Mansbach, *The State, Conceptual Chaos, and the Future of International Relations Theory*, (Boulder: U of Denver P, 1989)
[6] Weber quoted in Charles Tilly, *Coercion, Capital, and European States, AD 990-1990*, (Cambridge, MA: Basil Blackwell, 1990) p. 70

of centralized, differentiated, and autonomous structures."[7] Whereas central authorities in feudal arrangements and large-scale, autarkic empires perpetuated a decentralized power structure and relied on tribute from relatively autonomous regional rulers, the modern state has historically extended its coercive reach by means of a permanent, well-outfitted army, and standardized center-directed procedures for levying taxes and exercising violence within the full extent of its territory. As sovereign, it claims as its birthright absolute authority over the territory lying within its boundaries and asserts its equality over and against the hostile ambitions of outside powers.

Sovereignty too is a much disputed concept whose precise definition continues to prove elusive. F.H. Hinsley has observed that "[S]overeignty is not a fact. It is a concept which men in certain circumstances have applied – a quality they have attributed or a claim they have counterposed – to the political power they or other men were exercising."[8] From Hinsley's point-of-view then, sovereignty is a social construct, a normative principle that serves to establish a "final and absolute authority" within a political community and to ensure that "no final or absolute authority exists elsewhere."[9] Sovereignty as organizing principle turns what otherwise might be deemed arbitrary power into legitimate authority. This is true at both local and global levels. Alan James, noting the contradictions and redundancies that result from equating sovereignty with perfect internal superiority and external autonomy, has settled on a purely juridical sense of the word as meaning "constitutionally independent" or "self-contained."[10] Determining the sovereign character of a political entity is as easy as

---

[7] Tilly, pp. 2,3
[8] F.H. Hinsley, *Sovereignty*, (Cambridge: Cambridge UP, 1986) p.1
[9] Hinsley, p. 1
[10] Alan James, *Sovereign Statehood: The Basis of International Society*, (London: Allen and Unwin, 1986) pp. 24,25

examining its constitution to ascertain whether it is legally independent or subordinate. In such a case, sovereignty is an all-or-nothing proposition, as James freely admits.

Yet so intangible a conceptualization remains unsatisfying as an aid in explaining patterns of interstate behavior. Furthermore, it is a far cry from the ideas of Machiavelli, Bodin, and Hobbes, the three of whom together did more to develop and formalize the idea of sovereignty than anyone before or since. For each of the three, sovereignty had overwhelming connotations of power and authority. Indeed, Bodin defined it as nothing less than "La puissance absolue et perpetuelle d'une Republique."[11] To express these two facets of the same quality, scholars have elaborated the concepts of "negative" and "positive" sovereignty. When making reference to sovereignty, I almost exclusively mean the positive variety rather than the purely juridical, negative sort that James propounds. The first correlates directly with a state's ability to act in self-preservation or extension and hence, bears a strong relation to global realities of power and authority. It also acknowledges that the vitality of sovereignty as the systemic norm of contemporary international relations is predicated on the ability of strong states to preserve it through the threat or use of force. That is not to discount the importance of legal norms, but only to recognize that all man-made normative orders ultimately rest on material foundations. While all states, by definition, possess negative sovereignty, positive sovereignty is considerably less universal. How can the position of the United States be compared with that of Vanuatu when the former plays a significantly different role in the international system than the latter?

When thinking about the future of sovereignty there are several questions to keep in mind? Firstly, what does the legal assertion and recognition of sovereignty imply about the

[11] Bodin quoted in Eli Lauterpacht, "Sovereignty - myth or reality?" *International Affairs*, 73:1 (1997) p. 139

internal and external power and authority of any one state? Then, what is the reality of power and authority and how accurately does that reality reflect the sovereign legal order?

I would argue that economic and social changes are far more likely to do serious damage to positive sovereignty (a state's ability to act) before there is any recognition of the inadequacy of negative (purely legal) sovereignty. It is one of the chief contentions of this paper that only after positive sovereignty has proven inefficacious as a means both of governance and of ordering international relations, will negative sovereignty be fully discredited and abandoned. The more that reality departs from the order supposedly upheld by sovereignty, the less normative credibility sovereignty will retain.

* * *

At issue here is not the disappearance of the State.[12] It has, after all, existed for thousands of years - ever since the first bands of marauding warriors were first able to use their superior physical force to command the stored wealth of nascent agricultural civilizations in Mesopotamia, Egypt, and the Indus Valley. However, the State as we know it - the sovereign, territorial state - is peculiar in nature to the European continent and is only as old as the political and economic conditions that necessitated it. While this modern state has continued to evolve both as concept and actuality, it has demonstrated a number of characteristics – mentioned above - which might be regarded as essential to its nature. I submit that the state of large standing armies, of centralized and intrusive (but also protective) bureaucracies, and exclusive territoriality, is in the beginning stages of crisis. It is currently facing substantive challenges to its long-held, exclusive position at the top of the political food chain. The most salient question thus becomes: At what moment do its

historically distinguishing properties –sovereignty chief among them - become so weakened as to constitute a fundamental redefinition of the political entity? When does the State cease to be sovereign and territorial and begin to be a new and different form of institution? Even before delving into a retrospective, we know that neither France nor Mexico nor India has existed in perpetuity as a unified political entity with well-defined borders and ruled by a sovereign, central authority. Of course that is no ground for predicting their demise. Nevertheless, it would be stubbornly ahistorical to think of the sovereign state and the international system it perpetuates as immutable.

Part One of this work has a dual purpose. Firstly, it seeks to explain the origins of the modern state by searching out its historical power base and accounting for its unparalleled success as a world historical phenomenon. More importantly, it is intended to give the reader a better perspective on the dynamics of change across time by identifying underlying historical processes and relationships between system variables that remain pertinent even today. Part Two proceeds by placing the state in the contemporary context of economic globalization, asking how the integration of formerly national markets is affecting state claims to exclusive territorial authority and how changing material conditions are creating compelling incentives for institutional innovation. In Part Three, I attempt to relate one aspect of the current trend toward globalization - the revolution in information technologies and the potential expansion of electronic commerce - to the state's ability to govern effectively. The concluding section lays out some possible scenarios for political organization and the role of the State in the years ahead. For the sake of variety, I use the terms state; sovereign, territorial state; national state; and modern state interchangeably

---

[12] I capitalize the word here in order to make a clear distinction between its general meaning as the primary locus of coercion-wielding authority within a certain territory from the more specific meaning adhered to in the

throughout this paper, always to refer to the unique political unit that took its definitive form in Western Europe during the sixteen and seventeenth centuries.

Although I write with an eye to the future, this paper does not purport in any way to presage its course. Prophecy is, as George Elliott put it, "the most gratuitous form of error." So far, at least, history has made mockery of enough would-be prophets for the rest of us to know better. Nevertheless, it is important, and now more than ever, that we think hard about what the years to come might hold for political organization. I take the position that we can construct some base for evaluating future scenarios by analyzing contemporary developments in the light of the past. If I make some immodest generalizations in conclusion, they are to be rightly understood as contingent and in constant need of contrast and comparison with events at history's edge. Accordingly, this inquiry into the future of the modern state goes forth in an adventurous frame of mind, which, if balanced with a critical eye, might help us to make some sense of our subtly tumultuous and thoroughly confounding times.

---

context of this paper.

THE SOVEREIGN, TERRITORIAL STATE IN HISTORICAL PERSPECTIVE

Even before Heraclitus phrased it so cleverly, it was probably quite evident that "nothing endures but change." Realizing that the state as we know it has not always existed and that it is quite probably destined for "the trash bin of history," if not soon at least some day, is an important first step in thinking about future potentialities. And yet, turning to the past for some insight into the origin and essence of that institution would seem a dubious way to begin this inquiry. Indeed, the conditions of the present are so changed from those prevalent during the crucial early period of the state-formation process that poring over the events of five centuries hence would seem unlikely to yield any facts still relevant to contemporary discourse.

Sociologist and historian, Charles Tilly, one of the foremost scholars on the formation of national states in Europe, has recognized the potential flaws in such a method. Nevertheless, Tilly argues, it is possible to observe in the particular context of the European experience some fundamental relationships among variables in the dynamic of state formation that may prove applicable to the changes of our day. It was only in Europe that the particular institutions of the sovereign, territorial state emerged from the dust, so to speak, and subsequently came to be legitimated as the preeminent form of political organization. In time, those original European states spread their ilk over the continent and from there, to the Americas, Africa, Asia, and Oceania. Since the present international system is essentially a European creation, one could reasonably conclude that some key aspects of the European experience might have considerable bearing on contemporary currents of change.

Drawing a historical construct of Fernand Braudel, Hendrik Spruyt has delineated three distinct levels of political change: interaction change, rank-order change, and change in

constituative units. While the former two might occur relatively frequently, the latter - unit change - represents a transition of considerable magnitude and is accordingly rare.[13] Over the expanse of Western history, the various instances of unit change can be counted on two hands, including tribal, kinship based polities; tribute seeking kingdoms and empires; city-states like Athens or Venice; overarching, translocal sources of authority such as the medieval Church or the Holy Roman Empire; feudal systems of vassalage and suzerainity; city-leagues (most notably the German *Hanse*); and the sovereign, territorial state. If, as this paper contends, we are now at a juncture of units, it is crucial that we understand the processes by which that change takes place. The groundbreaking work of Tilly and Spruyt provides two distinct, yet complementary, ways of thinking about the issue. My object in the rest of this section is to explain how and why the sovereign, territorial variety of state triumphed over contending forms of political organization and then, to hint at how understanding that historical episode can inform our interpretation of contemporary change.

* * *

The first insight that a reading of Tilly's work yields is that the rise of the sovereign, territorial state was neither consciously orchestrated nor inevitable. Its eventual triumph was certainly not evident to observers at the time. From our vantagepoint on the edge of history the significance of this fact may be slow to sink in. We tend to think of the state and the international order it creates as something fixed - the culmination of an ineluctable process of institutional progression which has, at last, played itself out. It is, to say the least, a rather naive presumption.

---

[13] Hendrik Spruyt, *The Sovereign State and Its Competitors*, (Princeton, NJ: Princeton UP, 1994) pp. 4, 23

At the turn of the first millennium, the modern state was nowhere to be found. As Tilly notes, even five to six centuries later "both the primacy and the ultimate form of the state were [still] much in doubt." As seen from 1600 or so, its development was very contingent; many aspiring states collapsed and fell along the way. The political collage of the continent in 1452 would be almost entirely unrecognizable to modern eyes. Europe at the time was shattered into between 80 and 500 "states, would be states, statelets, and statelike organizations."[14] That it could boast of only 38 such territories in 1998 (though they may all be nominally sovereign and hence, inviolable and immutable by mutual accord) indicates that the intervening five centuries was a period of dramatic political transformation and consolidation.

The overriding implication of that fact is that the early national states proved military superior to alternative forms of political organization at the time, stripping authority away from previously significant internal power-magnates such as local feudal warlords and ecclesiastical landowners and absorbing weaker external entities - principalities, city-states, even empires. National states went about consuming the other forms of political organization widespread at the time, including the less militarily powerful of their own kind. The continued success of these expansive drives eventually led to a radical break with the old forms of organization - feudalism, Church, and Empire – and toward a fundamental, large-scale transformation in the predominant type of political unit.

The transformation in political relations that, according to Tilly, began in the fifteenth century and continued to the twentieth was so radical in nature that its significance can hardly be overemphasized. Medieval Europe had been a patchwork of overlapping, often

---

[14] Tilly, p. 45

conflicting jurisdictions, existing in a state of fragmented sovereignty. Neither the internal nor the external relations of political actors bore much resemblance to those which characterize the present international system. The interrelations of feudal landlords, their suzerains, the Church, ecclesiastical landholders, and the Empire lacked a clear hierarchy. Their control over territory was neither exclusive (*de jure*) nor complete (*de facto*). In marked contrast with the present system of exclusive territorial sovereignty, feudalism was based on kinship ties and personal bonds.[15] Actual rule, that is, the physical means of ensuring compliance with the will of the sovereign, was nearly everywhere local in nature, as was production and commerce. Local warlords and landowners - barons, dukes, princes and the like - might have sworn an oath of fealty and paid tribute to several suzerains, but each acted with a considerable degree of autonomy within his own demesne. Fealty was more a relationship of convenience than an expression of hierarchy. Small-scale, private wars between members of the nobility and the land-owning clergy were commonplace and permitted,[16] even in territories where a single sovereign, the king of France for example, asserted themselves as the supreme arbiter of peace and justice. Economies were organized around localities, and transactions usually took place in-kind.[17]

Across this splintered mosaic, both the Roman Catholic Church and the Holy Roman Empire laid claims to universal authority. The Church in particular exercised a decidedly translocal control over certain spheres of activity, its regulation of civil relations by means of an overarching body of canonical law being a prime example. The majority of papal revenues was, likewise, not tied to the administration of any specific territory.[18] The

---

[15] Spruyt, pp. 38-40
[16] Tilly, pp. 67-70
[17] Spruyt, pp. 34-57, 61-76.
[18] ibid, pp. 44-5

bureaucratic hierarchies of Rome hindered the free exercise of power by local rulers.[19] The Church sanctioned a social order that emphasized stasis, which meant that one's place in society was determined at birth. Profit-seeking was regarded as immoral; usury was a sin and, therefore, officially prohibited.[20]

In short, sovereign national states, defined as those states controlling a well-defined, contiguous territory, subdued and secured by large standing-armies with a monopoly on the means of violence within that territory, administered by a centralized bureaucratic apparatus, and marked by the differentiated character of the instruments of government, would have been a stretch of the imagination for even the most creative scholars and jurists of the time.[21] In retrospect it is remarkable, considering these entrenched medieval institutions stood as formidable obstacles to their formation, that national states were able to overcome such a highly decentralized power network. How and under what circumstances that happened is the key to understanding the dynamic of political change past and present.

Tilly admits that economic expansion between 1000 and 1500 was critical to the rise of the modern state. In Western Europe, the transformation from local feudal economies to a mercantile, translocal trading network was especially pronounced. The expansion of trade freed resources from their feudal bondage, and state-makers were quick to take advantage of capital's new mobility. The new cities, towns, and cottage industries that were sprouting up across the region significantly altered relations between rulers and ruled.[22] But despite the importance of economic changes, Tilly argues that they merely constitute necessary but not sufficient preconditions. The expansion of capitalism did not necessarily have to culminate

---

[19] Spruyt, p. 51
[20] ibid, pp. 70-1
[21] Tilly offers these qualities as the core properties of the modern state. Tilly, p. 27
[22] ibid, p. 54

in the rise of states. Rather, the system of states as it now exists is the direct result of centuries of violent competition by warfare and of the concerted efforts of each state makers to acquire the means of war.

The national state has survived to dominate our own century because it proved the fittest from among the many alternative forms present in the Europe of 1500. To explain just why and how the state prevailed Tilly focuses on two key elements. The first is the changing nature of warfare in the 15th and 16th centuries. The second is the interrelation between Capital, which Tilly equates with cities, and Coercion, the waxing states. The former gave the national state the advantage in employing coercive-means while the latter determined exactly what path regional polities would follow to statehood.

* * *

Given that war has been the principle activity of States for at least the last thousand years, it should come as no great surprise that States should evolve as the nature of war changed. Almost all States have been and continue to be dependent on exogenous sources of revenue. In the decentralized nexus of pre-modern Europe, they had drawn revenues largely from patrimonial tributes. State budgets existed nowhere in Europe.[23] As warfare began to shift from cavalry-led, open field battles to heavy siege warfare and large-scale standing armies equipped with firearms (which in turn necessitated the introduction of stronger, stone fortresses built to resist their destructive power), the competitive advantage fell to those states, like France and Habsburg Austria, that could command sufficient resources to absorb the increased costs.[24] From then forward, big states with access to a combination of large rural populations, capitalists and relatively commercialized economies essentially "set the

[23] Tilly, p. 74
[24] ibid, p. 76

had ever been before by the prohibitive costs of and the fairly recondite knowledge involved in making and utilizing the new weaponry.[29] This disarmament of the state's internal space marks a turning point in history since before that time local and regional power magnates had frequently controlled sufficient force to match or overwhelm that of the state.[30]

* * *

At the center of this long process was a dynamic that might be conceived as a continuous bargaining between Coercion and Capital, State and City. Despite the overwhelming physical force of the central authorities, they could not prosper and engage other surrounding territories militarily if they were to be constantly embattled with their subject populations. In their efforts to move from indirect to direct rule of their domestic population centralizing states met considerable resistance - resistance from the "ordinary people" they often compelled to forfeit resources, lives and loyalties; from " established authorities" which had to relinquish all or at least a portion of their power; and from "rival claimants" to sovereignty.[31] As state powers conquered and consolidated, they acquired new responsibilities that frequently diverted them from military activity at their borders. They acquired responsibilities toward their subject populations, administering cities and protecting and regulating commerce among them.

The lines along which the various internal interests drew up were the chief determinants of how individual states developed. "Various combinations of capital and coeercion produced very different kinds of states."[32] Tilly has elaborated three alternative paths that Europeans states followed: capital-intensive, coercion-intensive, and capitalized

---

[29] Tilly, pp. 25, 54
[30] ibid, p. 69
[31] Charles Tilly(ed), *The Formation of National States in Western Europe*, (Princeton, NJ: Princeton UP, 1975) p. 22

coercion.[33] The variation in paths was due to the different responses to the functional demand of waging war; that, in turn, varied with the relative strength of cities from region to region. In highly urbanized areas like the Netherlands or Italy, where capital was abundant and its interests very powerful and independent, the ambitious state builders were heavily reliant upon the willingness of merchants, bankers, and other capitalists to lend. In these *capital-intensive* states, cities practically equaled states in their power. *Coercion-intensive* paths to statehood correlate with those states where cities and Capital were relatively scarce. In the more rural societies of Spain, Poland, and Sweden, state-makers were compelled to concede greater powers to the feudal landholding class that was gradually being disenfranchised in surrounding nations. Commonly regarded today as prototypes of modern statehood, France and Britain followed a path of *capitalized coercion*, meaning that the interests of both forces achieved a greater balance than in capital- or coercion- intensive states. Countries following the capital-intensive and capitalized coercion paths had much freer access to credit, which made them more efficient at both preserving their internal monopoly on violence over the short-run and extending their brand of state beyond their frontiers in the long-run. Regimes in capital-intensive states, however, were inherently unstable because their funding, though it could be rapidly mobilized in case of war, could just as quickly be withdrawn. By the end of World War I then, the capitalized coercion model of Britain and France had prevailed.

Beginning in the late 18th and early 19th centuries, states engaged in a vigorous campaign to homogenize their internal spaces.[34] Until the reforms of Napoleon, France could scarcely have been mistaken for a culturally unified nation. The end result of their

---

[32] Tilly, p. 17
[33] ibid, pp. 30-4

efforts was the generally successful creation of common identities and institutions that served to bolster popular loyalty. The fewer cultural and linguistic rifts that persisted within its bounds, the better a state could claim to be representing the interests of all its peoples. In fostering a patriotic ethic, the homogenization and nationalization process facilitated the collection of taxes by turning it into a moral obligation, a duty of "citizenship." This set the state for the rise of the welfare state with which we in the twentieth century are well acquainted. While the development of nationalistic sentiment and the welfare state has tended to "obscure the centrality of coercion," it remains, Tilly insists, the material foundation of the sovereign, territorial state's power.

* * *

Hendrik Spruyt's *The Sovereign State and Its Competitors* builds on the work of Tilly, though it takes issue with Tilly's insistence that competition through warfare was the primary dynamic behind the formation of the sovereign state. According to Spruyt, a state's ability to wage war was simply a function of its particular institutional arrangements.[35] He asserts that it was the changing nature of economic interaction on the continent, specifically the aforementioned geographical expansion of trade, that set the modern state on the path to universal political preeminence.

One of the most intriguing aspects of Spruyt's argument is his reliance of a concept from evolutionary biology – Stephen Jay Gould's "punctuated equilibrium" - to serve as an explanatory model for the paradigm shifts in dominant organizational unit touched upon at the beginning of this section. The central idea of punctuated equilibrium is that change is

---

[34] Tilly (ed.), p. 79
[35] Spruyt, p. 30.

inconstant, occurring in rapid bursts of proliferation.[36] In times of institutional crisis, such as that precipitated in late-medieval Europe by economic expansion, political entrepreneurs and social actors responding pursuant to their interests to create new forms of political organization. According to Spruyt, the relationship between Coercion (political entrepeneurs) and Capital (social actors) is less antagonistic and more a collaborative effort to supplant mutually undesirable institutions. The two parties react to new material incentives by generating a number of alternative institutions to replace those in crisis. Of the new entities generated by these "social coalitions," each might be a perfectly viable form of political organization. Once in existence, however, some types exert competitive pressure on others, though not necessarily through war or threat of force. In such a way, those institutions distinguish themselves as more efficacious and efficient than the others, which are eliminated either by absorption or abandonment.[37] In support of his application of punctuated equilibrium to state formation, Spruyt presents three forms of organizations that sprouted and flourished for a time in the wake of feudal Europe - the city league, the city-state, and the sovereign, territorial state.

Within the parameters of the punctuated equilibrium model, the first phase in the process of state-formation can be understood as one of *generation*, where each new political unit represents a unique, creative response to the prevailing crisis in old institutions. In the case of high- to late-medieval Europe, varying material conditions and interests from region to region made for very different political experiments. We now know, of course, that of those three instituional innovations – city-league, city-state, and sovereign, territorial state – only the latter is still with us.

---

[36] Spruyt, p. 25, 184

How and why did the sovereign state eventually weed out other institutional forms? The question brings us to the second phase of punctuated equilibrium, *selection* through competition. Competition ultimately strengthened the position of the centralizing national states relative to city-leagues and city-states because central authorities at the time proved more efficient at protecting the growing traffic in goods, providing a common currency, and lending stability to a broadening market. The territorially consolidating states eliminated costly political borders and made possible greater efficiencies of scale, conditions that favored the mercantile operations of the increasingly powerful burghers.[38] As the balance of power began to tilt toward these early prototypes of modern statehood, their advantage became self-reinforcing. States begot states. The principle of sovereignty in itself proved a competitive advantage because its adherence to a clear demarcation of political boundaries meant that states could coexist without threatening the absolute authority of one another.[39]

The *Hanse* failed, quite simply, because its internal institutions were weak and unstable. Likewise, the city-state withered away in the face of repeated internal challenges to their authority due to the city's often despotic relationship with its hinterlands.[40] Elites sought to reporduce the state's attractive qualities or, if that was not possible, to exit unfavorable jurisdictions for more accomodating territories.[41] The ascendent states found themselves empowered to decide which entities would be recognized legal personalities and which not; by only recognizing similar forms of organization they reinforced their dominant position in the international system. By the mid-17th century the city-league was already defunct and the Italian city-states were in decline.

---

[38] Spruyt, p. 64, 65
[39] ibid, p. 166-75
[40] ibid, p.166-7
[41] ibid, p. 155

Spruyt sums up the process of attrition nicely:

> ... actors tried to create institutions that corresponded with their belief systems and best met their economic and political interests... Over time some of these institutional choices proved to be better than others, and the lesser ones were structurally weeded out by competition and the process of mutual empowerment. There were good reasons to prefer systems of rule that could make credible commitments and systems that would not encroach upon one's own jurisdiction. Simultaneously, social actors instrumentally switched their allegiances to their newly preffered form of organization, and political entrepeneurs copied the more successful institutional logic.[42]

And so, the system of sovereign, territorial states was born.

* * *

A man of somewhat less renown than the Greek sage once observed that "the more things change the more they remain the same." It is the unabashed contention of this work that the changes our world is now experiencing are not only of comparable magnitude to those analyzed in this section but comparable in their internal dynamics as well. In the following two parts, I seek to describe two related contemporary phenomena and to draw parallels across time. Among the salient questions to consider are: How do present developments affect that central relationship between Capital and Coercion which Tilly has identified as being the deciding factor in the process of state formation and development. How might changing economic conditions and technological innovations create new incentives for the reorganization of political habits and institutions? How are "political entrepreneurs" and "social actors" with distinctly global interests coming together in coalitions that are having corrosive effects on state power and authority? Under these new conditions, does the sovereign, territorial state remain the most efficient means of political

---

[42] Spruyt, p. 175

organization? Does it still retain the capacity to command societal resources as before? Do the material forces of economical globalization, spurred by new technologies and electronic commerce, ineluctably lead to the demise of the sovereign, territorial state? What is the role of political and economic norms in directing the state's evolutionary path? And finally, what other political entities might be identifiable as emergent competitors to the modern State and what kind of scenarios for international order might we envision for the first-half of the next century?

GLOBALIZATION AS AN INCENTIVE FOR INSTITUTIONAL INNOVATION

Sociologist Daniel Bell was one of the first observers to suggest that the "nation-state" was both too big to handle regional problems and too small to adequately deal with the truly global conundrums of the latter twentieth century.[43] The idea has found widespread acceptance in the decades since, particularly in Western Europe, where it has served as one among several justifications for those states to voluntarily surrender decision making authority over such diverse matters as environmental, trade, and fiscal policy to a supranational agency. The political clout of sub-state regional interests has grown significantly as well. Even the most powerful and independent states of today possess considerably less freedom of action than their counterparts of the nineteenth century. Due to radical innovations in transportation and communications, states have lost the "hard shell" of territory that had previously made them impermeable to outside influence.[44] Technological progress and increased international co-operation have impinged on state autonomy by fostering a regime of interdependence from which states could extract themselves only by enforcing complete isolation and only to the great detriment of their citizens' economic welfare. Such developments have led at least one writer to dismiss the contemporary "nation-state" as an anachronism, a "form of fiction."[45] Others, more cautious but equally concerned, have referred to the sovereign state's present condition as a kind of "crisis" from which it is unlikely to emerge before undergoing significant changes. For others still, the crisis extends to the very heart of industrial society. One may justifiably be wary of

---

[43]Daniel Bell, *The Coming of Post-Industrial Society: A Venture in Social Forecasting.* (New York: Basic Books, 1973)

[44] James, p. 167-8.

hyperbole. People frequently endulge in over-optimism and over-pessimism when thinking about the future. Are James Dale Davidson and William Rees-Mogg dispelling an illusion or creating one when they state matter-of-factly that "[t]he civilization that brought you the worldwar, the assembly line, social security, income tax, deoderant, and the toaster oven is dying. Deoderant and the toaster oven may survive."[46] For "crisis" or any other such word to be appropriate in describing the predicament of the modern state, the state would really have to be confronting credible challenges to its very essence. That, as we will see, is truly the case.

* * *

The logic behind the opening of once closed national-markets is really quite simple, having been first expressed by economist David Ricardo two centuries ago. Ricardo's theory of comparative advantage asserted that all nations would be better off if each would specialize in the production of that good or service in which it was relatively most efficient. Of course, states would have to lower the significant barriers to their domestic markets and permit the competitive forces of capitalism to act unimpeded by physical boundaries. But the prosperity, and even peace, inherent in an economic system of interlinked national economies was thought by most to be worth the sacrifice.

Economic globalization is best understood as a phenomenon of the last two or three decades. Critics have questioned the novelty of globalization, rightly claiming that pre-1914 cross-border flows of goods and capital were as extensive as those of the present day. What detractors have generally failed to recognize, however, is that the nature of the current system

---

[45] Riccardo Galli, "Structural and Institutional Adjustments and the New Technological Cycle," *Futures* (October 1992) p. 784

[46] James Dale Davidson and Lord William Rees-Mogg, *The Sovereign Individual*, (New York: Simon and Schuster, 1997) p. 40

is fundamentally different from that established under past colonial trading networks. More that a mere "internationalization" or "liberalization" of trade and finance as was the case prior to World War I, the "global webs"[47] that have formed since the collapse of Bretton Woods in 1973 represent the beginnings of a trading regime that actually "transcends" borders.[48] Sparked by the invention of new technologies that drastically reduce the costs of communication,[49] global entrepreneurs and financiers are endeavoring to create "global places" that are beyond the pale of the modern state. On a normative level, this transcendence of borders has been furthered by the Anglo-American aversion to government interference in economic activity. The ethos of globalization holds "statelessness" up as its highest ideal.[50]

From 1960 to 1995 the number of firms with operations in more than one state went from 3500 to 40,000.[51] These "transnational," or "global," corporations have strung production lines out across a multitude of states so that questions regarding a product's country of origin lack substance. Over the last twenty to thirty years the growth of markets has encouraged a concomitant concentration of wealth. The 300 biggest global firms now control 70% of all FDI.[52] Many of these "globo corps," as they have been tagged, boast a gross annual income that far exceeds the GDP of some putatively sovereign states. Thus Exxon - which sold more than $400 billion in goods and services in 1980 - was (and still is) richer that at least 140 "independent" countries.[53] Inter-firm trade is estimated to account for

---

[47] Robert Reich quoted in Evans, p. 66
[48] Jan Aart Scholte, "Global Capitalism and the State," *International Affairs*, 73:3 (1997) pp. 430-32
[49] "One World?," *The Economist*, 18 Oct 1997, p. 79
[50] Peter Evans, "The Eclipse of the State?," *World Politics* 50 (October 1997) p. 64
[51] Scholte, p. 437
[52] J.H. Dunning, *The Globalization of World Business: The Challenge of the 1990s*, (London: Routledge, 1993) p. 15
[53] Seyom Brown, *New Forces, Old Forces, and the Future of World Politics*, (Glenview, IL: Scott, Foresman and Company, 1988) p. 161

as much as 40% of all cross-border merchandise flows.[54] World exports and imports have grown one and a half times as fast as domestic transactions. The proportion of exports to GDP has doubled in OECD countries, and foreign direct investment has grown three times as fast as trade.[55]

* * *

Parallel to these seamless global markets and production lines for merchandise have grown integrated markets in currency, equities, and bonds due to advances in telecommunications, value can now be instantly transferred half way around the world at the touch of a few computer keys. Capital flows have once again become "the engine of the world economy."[56]

In his *Six Books of the Commonwealth*, French jurist Jean Bodin delineates three "pillars" on which the sovereignty of a state rests. Among those three is the control of money, credit, and fiscal policy.[57] Traditionally, a state has been free to alter the exchange rate of its currency, to set the interest rates on various forms of credit issued within its borders, and to borrow, print, or withdraw currency to suit its budgetary needs. Often, decisions on such matters were influenced as much by political considerations as economic factors. In periods of recession numerous governments, particularly in Third World countries, have pursued inflationary monetary policies just to appease their constituents in the short-run, without regard for the negative long-term effects on savings, investor confidence and hence, economic growth. Today, any manipulation of economic variables to suit strictly political ends amounts to institutional suicide. Witness the Mexico Tequila Crisis

---

[54]Scholte, p. 437
[55]Evans, p. 65-6
[56] Peter F. Drucker, "The Global Economy and the Nation-State," *Foreign Affairs* 76:5 (Sept/Oct 1997) p. 166
[57]Jean Bodin, *On Sovereignty*, trans. Julian H. Franklin, (Cambridge: Cambridge UP, 1992)

of 1994; in that instance, the Mexican government was severely chastened by private investors for delaying much needed macroeconomic reforms. Governments around the world are increasingly finding that over the last twenty-five years, their hands have been effectively tied. What is often a more painful realization for politicians and bureaucrats in advanced, industrialized states is that the global, free-market world order which they helped to construct is responsible for their present incapacitation. Since the US, Britain, and Germany quit trying to control cross-border capital flows in the late 1970's, other industrialized nations have followed suit.[58]

The state has been induced to sell its soul, so to speak, by the lure of prosperity. State dependence on private capital and patronage has reached the point that the consequences of self-imposed isolation from the external forces of the global economy would be politically untenable, even for large, relatively self-contained economies like the United States. States have become rivals in a fierce competition to attract the economic favors of corporations and financiers. Macroeconomic policy decisions affecting the lives of millions of "everyday people" were previously made by individuals who were, theoretically at least, accountable to the voting public. No longer. In contrast to concepts of citizenship and rights to political participation based on *jus soli* or *jus parentis*, the "right to vote" has come to be "predicated on the possibility of registering capital."[59] The explosive growth of capital markets since 1980 has given rise, in the words of Saskia Sassen, to a "cross-border electorate" commanding "economic citizenship."[60]

---

[58]"One World?," p. 79
[59]Sassen, p. 40
[60]ibid, p. 40

The power of this new "supraterritorial constituency"[61] is manifested most clearly in the world's currency trade - the world's only truly global market. A daily volume of currency turnover totaling $15 billion in the 1970's had grown to approximately $1.3 *trillion* by 1995.[62] In comparison, the total reserve holdings of the world's advanced industrial countries are only about $640 billion,[63] scarcely enough for any country or group of countries to mount a concerted defense of a major currency in the event of a sustained sell-off. Every time that states have tried to fight this "virtual money" - electronically stored value that flows instantaneously from currency to currency without serving any real economic purpose - they have failed miserably.[64] The recent run on the Malaysian ringgit is an illustrative example. The incident left the Prime Minister, Dr. Mahathir Mohamad, clamoring for international controls on the currency trade in order to prevent speculators from single-handedly ruining the economy of Third World countries.[65]

With the expansion of the derivatives market, central bank manipulation of interest rates has begun to lose some of its powerful economic clout; most government controls on credit have been eliminated through deregulation.[66] The immediate future is unlikely to reestablish any equilibrium; the growth of trade in capital assets (including currencies) is projected to continue a trend that is expected to culminate in the full integration of the world's financial markets before 2025.[67]

* * *

---

[61] Scholte, p. 445
[62] Enough currency is swapped in four or five days to finance the entirety of yearly trade and investment flows worldwide.
[63] Sassen, p. 40
[64] Drucker, p. 162
[65] Talib, Ahmad A., Salful Azhar, and K. Bala, "Chirac: Currency Trading Rules Vital," *New Straits Times* 18 Nov 1997, 1:1-2, 2:5
[66] Sassen, p. 45 Derivatives allow investors to circumvent the temporary fluctuations in interest rates.
[67] ibid, p. 41

What impact is this "'dictatorship of international financial markets'"[68] likely to have on political organization? The evidence presented heretofore seems to indicate that the modern state is losing its organizational advantage in the provision of public goods. Tilly and Spruyt have demonstrated how political entrepreneurs (the state-makers) and social actors (the capital-owning traders and merchants) in Europe collaborated over the course of the 15th and 16th centuries to replace the old feudal order with innovative new forms of State. Changes in the nature of warfare and economic activity gave rise to overwhelming incentives for institutional innovation and unit change at the systems level. Economic globalization is spurring a similar change in our own time. One need only read the papers.

The creation of the WTO under the 1994 Uruguay Round of GATT negotiations was, in no small part, due to the lobbying effort of a consortium of global corporations led by Texas Instruments. Their intent was the formation of a "multilateral" organization whose proper functioning would subvert state sovereignty by subordinating political considerations to universally valid economic principles. Constitutionally at least, the WTO is empowered to abrogate any national, state, and local laws that might come into conflict with the interests of non-discriminatory free trade. The recent U.S. entanglement with Europe and the WTO over the Helms-Burton Act's extraterritorial embargo on Cuba is an early example of how sovereignty in the positive sense will continue to be undermined.

A strengthened, more active IMF is having an analogous effect. When currency crisis and economic recession hit Asia late in the summer of 1997, the IMF came to the rescue with abundant funding for bailouts. Before receiving the IMF loans, however, Thailand, South Korea, and Indonesia were compelled to accept the demanding conditions of structural

---

[68]Block quoted in Evans, p. 67

adjustment programs (SAPs) that struck at the heart of their authority over domestic financial markets and their ability to restrict foreign capital in-flows and regulate domestic banking institutions. They would certainly have been within their legal right to refuse those conditions; domestic opposition to the IMF's dictates was rife. Only the economic fallout that would have resulted - damage in excess of what the leaders of those countries were already having to deal with - made any such decision impolitic.

In spite of cries of "Western imperialism," the fund does not just pick on less developed countries. Its influence it ending British/French military action during the Suez crisis of 1956 is an excellent example of how international institutions can govern powerful states, even to the point of compromising their ability to use military force (i.e. positive sovereignty) in defense of their prerogatives.[69]

Banks and private investors stand to benefit from a strong IMF because it can act to insure them against any unwise ventures that go bust. The SAPs recently prescribed in Asia differ tellingly from past IMF interventions in that they were primarily designed to mitigate the effects of a crisis whose sources lay essentially in the private sector.[70] We could, however, start seeing more similarly motivated operations in the future.

Privately controlled enterprises serve to compromise state sovereignty as well.[71] Financial ratings agencies like Standard and Poors and Moody's have significant influence over world investment flows. They monitor the fiscal and monetary policies of state governments and then grade each on how well their policies match up to the interests of private investors. A poor rating can send portfolio capital into a frenzied flight.

---

[69] Lauterpacht, p. 193
[70] "New illness, same old medicine." *The Economist* 13 Dec 1997, p. 65
[71] Scholte, p. 444

Finally, Sassen has commented on the proliferation of private legal regimes – arbitration and mediation panels - created to handle commercial and financial disputes.[72] Based on this evidence, she has suggested that the power of public international law is waning and with it the ability of states to set collectively set norms for international business relations.

* * *

All of these advances in global economic integration come at the expense of the modern state. More significantly, sovereignty is not being purposefully ceded as is the case when states sign international treaties. Rather, it is being involuntarily seized, though not without a certain material compensation for some. The more the above institutions flourish, the more that "[t]erritorialist assumptions" become "untenable."[73] The *de facto* erosion of positive sovereignty undermines the perceived legitimacy of sovereignty as an organizing principle (its negative sense) at the international level, clearing the way for new forms of political organization to contend with the old.

---

[72] Sassen, 15-19

[73] Scholte, p. 432

THE INFORMATION REVOLUTION, ELECTRONIC COMMERCE, AND THE STATE'S FAILING POWER BASE

The media has been rife in recent years with talk of a revolution, not of armed men but in the way human societies go about solving problems.[74] The basic idea is that certain key technological innovations have within them the power to fundamentally reorganize the structure of economic activity. Hence, the "discovery" of methods of planting seeds and then cultivating and harvesting their produce for consumption precipitated what is now known as the Agricultural Revolution. Previously, human beings had grouped themselves into small nomadic bands that survived by hunting and gathering. The agrarian economy made it possible for the first time to store wealth. In so doing, it made permanent human settlement possible and in time, gave rise to civilization and the State. Perhaps more familiar to us are the consequences of the Industrial Revolution, having come, as it did, only a few hundred years ago. In both cases the magnitude of change was immense.

Unbeknownst to the vast majority of people currently living on this planet, we are now on the cusp of another such paradigm shift. This time it is not agriculture or industry, but rather information, that is transforming the way we "live, work, and play." Futurist Alvin Toffler was one of the first to understand the enormity of it all when, in 1980, he proclaimed the arrival of "the third wave" of human civilization.[75] In the emergent economy, information and the mental effort required to command it, not physical labor, will be the new sources of value and chief generators of material wealth.

* * *

[74] Walter Wriston, "Bits, Bytes, and Diplomacy," Foreign Affairs 76:5 (Sept/Oct 1997) pp. 172-82
[75] Alvin Toffler, *The Third Wave*, (New York: William Morrow and Company, 1980)

One of the hallmarks of the Information Age is the Internet's rapid conquest of the globe and the expansion of economic activity into cyberspace. The advent of electronic commerce promises to revolutionize the way human beings relate to one another, with especially dramatic implications for political organization. Businesses and governments alike have begun to recognize electronic trade as the most significant engine of growth for at least the first quarter of the twenty-first century. Recent years have seen the birth of the "virtual enterprise." Internet use doubles every 100 days, and the "digital economy" is presently growing at twice the rate of the overall economy.[76] By 2005, over one billion people will be using the Internet.[77] Ira Magaziner, Presdent Clinton's advisor on policy development, has estimated that by 2002 "E-commerce" will generate more than $300 billion worth of business in the US alone.[78] Conducting business electronically promises to drastically lower the traditionally high transaction costs involved in providing goods and services. The UN Conference on Trade and Development has estimated that paper-based bonds, insurance, and other formalities add as much as twenty percent to the cost of American manufactured goods.[79] As satellite and wireless data transmission technologies are perfected, the low-value paperless payment system could eliminate more than $100 billion in inefficient transactions each year.[80] The Internet's empowering reach should grow even more extensive, linking even the previously most remote parts of the globe to the world economy at a fraction of the price of a land-based communications infrastructure. The prospect of commercial expansion onto the Internet represents the crowning achievement of a revolution that began more than a century and a half ago with the invention of the steamship,

---

[76] Elizabeth Weise, "Net use doubling every 100 days," *USA Today* 16 April 1998, 1A
[77] "Global Partnership for E-Commerce," Interview with Ira Magaziner by Edmund F. Scherr, p. 3
[78] "Global Partnership for E-Commerce," p. 2
[79] Harold Wolhandler, "The Internet and Global Trade." Activmedia, Inc. p. 6

the railroad, and the telegraph. But while the effects of those earlier innovations on the power and authority of the modern state were limited, contemporary settlement of the "electronic frontier" promises to unleash considerable destructive force on its long-standing institutions. Indeed, the economic incentives to make Internet commerce work are pronounced.

Vital to its success, however, is the development of two supporting technologies: electronic money/banking and strong encryption software. Not surprisingly, both have provoked considerable worry among policy makers, which fear their effects on the state's ability to regulate and police Internet transactions.

* * *

At present there are three incipient forms of electronic payment, each with distinct advantages and disadvantages.[81] As a group they are intended to fill the adding electronic market's need for a corresponding medium of exchange. Electronic debit and credit systems are being developed that amount to little more than the digitization of traditional check and credit card transactions. Widespread use of such payment methods would certainly facilitate electronic commerce, but they have the serious drawbacks of being relatively inefficient in terms of transaction costs and leaving an easily traceable record of the identities of the parties involved in any transaction as well as the transaction's value. More significant are the second and third types of electronic money, stored-value, or "smart," cards and "digital cash." Because they are inherently anonymous in nature, both of these could present serious challenges to the state's control of the money supply. Smart cards already exist in limited

---

[80] Andreas Crede, "Electronic Commerce and the Banking Industry: The Requirement and Opportunities for New Payment Systems Using the Internet," Science Policy Research Unit, University of Sussex, p. 5

[81] Stephen J. Kobrin, "Electronic Cash and the End of National Markets," *Foreign Policy* 107 (Summer 1997) p. 66

form and use. They resemble traditional credit cards only with the capacity to carry a specified quantity of cash in a sort of "electronic purse" that can be loaded from an on-line bank or an ATM and then used to carry out transactions on-line by means of card readers hooked up to personal computers. In such a way value could be conveyed safely and anonymously via Internet. The electronic form of payment with perhaps the greatest potential for sparking far reaching economic and political change is the so-called "digital money." Digital money or "cybercash" would exist only as bytes in the memory of a computer and would permit secure, direct payments between two perfectly anonymous parties with negligible fees and transaction costs, thereby making low-value electronic transactions cost-efficient.

Though the initial "digital value units" might first be issued by banks or other electronic payement services as proxy for national currencies (digital dollars or digital marks, for example), there is no reason why institutions of all types could not issue their own measures of value, provided they are credible enough to ensure confidence and convertibility. Such a proliferation of private currencies, though not unprecedented, would amount to a break with the long-held government monopoly over the supply of money. Even private corporations like Microsoft or Xerox might decide to issue their own brand of currency.[82] Eventually, a world of competing electronic currencies with values divorced from that of the official state-issued monies could take root.[83] A whole horde of banks have already begun to set up sites on the Internet in support of these new monies.

Though it is still to soon to foresee the end effects of electronic money, it could very well be one of the forces that contributes to a fundamental redefinition of sovereignty away

[82] Kobrin, p. 66
[83] ibid, p. 68

from previous concepts tied to absolute authority within a specific territory. The chief attribute of electronic money is that, like cyberspace itself, it is incontrovertably transnational in character.[84] It has the potential to cross national barriers at the speed of light, incurring no cost in the process and, in the case of digital money, escaping all attempts at regulatory control.

All electronic payment systems rely on powerful techniques for encrypting on-line exchanges. Regardless of whether it is technically feasible to conduct business over the Internet or not, firms and individuals will not do so if they believe the security of their transmissions to be compromised.

* * *

Encryption technology refers to software that is designed to secure information against intentional intrusion. Encryption applications run on complex algorithms for finding the unimaginably large prime numbers that are the keys to reading and decoding any data transmission. The larger the prime number, the more raw computing power required to break the code. Once encrypted, an electronic missive cannot be accessed by any party without the proper key. The protection provided by the most advanced form of encryption, known as "public key," is practically unbreakable even with some of the more powerful number-crunching tools at the disposal of the US National Security Agency (a.k.a. No Such Agency), home of the world's most formidable team of information experts. Public key encryption employs two different keys: a public key which is easily accessible by anyone who wishes to send an encrypted message and a private key known only to the individual or firm recipient of the message. Under previous encryption methods it had been necessary for the two parties

involved to share a single key, a practice which made electronic transmissions more susceptible to a successful attack on their integrity. In 1992, a computer scientist named Phil Zimmerman, alarmed by the apparent attempts of US government agencies to limit public access to advanced encryption, released his own version of public key as shareware, thereby making it available to Net users worldwide. The government subsequently prosecuted Zimmerman, claiming he violated laws prohibiting the export of military-grade encryption.

Why all the hullabaloo over a technology that simply allows citizens and businesses to take full advantage of the new possibilities for electronic commerce by ensuring the privacy and security of interchanging of information and wealth? Contentions really center around two issues: national security/public safety and taxation. Though the former is presently the hot topic of debate, it is the latter that is, perhaps, more significant to any discussion of the future of the state. The potential ramifications of encryption technologies are particularly salient to the argument of this paper because they directly relate to activities which have been the exclusive province of the sovereign, territorial state for the last five centuries.

* * *

With regard to the question of how encryption might compromise national security, the Zimmerman case is simply one of the more prominent instances in the very active debate being waged between business interests/libertarians and governments in developed, industrial nations where electronic commerce expects to make the greatest headway in the immediate years ahead. The core of that debate is a conflict between public and private

---

[84] Tatsu Tanaka, "Possible Economic Consequences of Digital Cash," Center for Global Communication, International University of Japan, p. 6

interests. At stake in this "great cryptography battle"[85] is the ability or right of the government and intelligence agencies to freely monitor communications and transactions on the Internet. In the U.S., the FBI, NSA, and other law enforcement agencies have been lobbying hard to prevent or, at least, control the widespread use of "strong crypto" applications that would prove crippling to their surveillance operations. At their behest, the Clinton administration has proposed a series of plans for government regulation of encryption. The now infamous and discarded "Clipper Chip" plan purported to install a government designed microchip in every computer, telephone, and modem along with any other article which might be used in transmitting encrypted messages. A Clipper chip would allow state control of the encryption algorithm, thereby permitting free access to all private transmissions on the prior acquisition of a court order,[86] much the same legal authority as those organizations now command. The administration was immediately accused by libertarians of laying the foundations for a totalitarian state of Orwellian proportions. It is, after all, doubtful that the NSA could be trusted to restrict its eavesdropping to legally approved cases. Until just recently, the NSA has had a virtual stranglehold on the most advanced forms of encryption, an advantage which it used rather indiscriminately to keep tabs on foreign governments and U.S. citizens alike. Naturally, it is not very keen on forfeiting its superiority.[87]

Another proposal of the Clinton administration which has garnered fairly broad support among law enforcement agencies, intelligence organizations, and governments in the

---

[85]Charles A. Gimon, "Say It Ain't So, Morilla," *InfoNation*, p. 1
[86] "Clipper Chip," *PC Webopaedia* 18 Nov 1996, p. 1
[87] "The Emasculation of Lucifer and Other Tales of the NSA," *Smart Publications*, pp. 1-7

Western world advocates the creation of a "key escrow" system[88] by which all authorized distributors of encryption software would be required to entrust their encryption "keys" to a licensed third party of confidence that could provide them to the government if encrypted transmissions were encountered by intelligence or law enforcement agencies in the course of an investigation. Users of non-authorized encryption software would, of necessity, be classified as criminals.[89] Naturally, most "netizens" and corporations with an interest in conducting business on-line are as averse to the "key escrow" plan as they were to having the so-called "Clipper chip" implanted in their hardware. The objections rest on several grounds,[90] the most voiced being the added element of insecurity involved in surrendering encryption keys to an officially neutral, disinterested third party that might still, on occasion, fall subject to bribery and intimidation. The key escrow plan has also failed to address the question of who will bear the considerable cost of maintaining such a potentially expensive system?

While domestic use of encryption in most advanced industrial countries has generally gone unregulated,[91] governments have enforced a ban on the export of military-grade encryption software under the pretense that it could be utilized by terrorists and organized crime to elude the watchful eye of state agencies. American software companies are generally prohibited from exporting encryption software that uses anything stronger than 64-bit keys,[92] technology which the NSA and other major data intelligence organizations would be capable of breaking within a reasonable matter of time. To date, companies that have

---

[88] Kenneth W. Dam and Herbert S. Lin, "National Cryptography Policy for the Information Age," *Issues in Science and Technology* 12 (Summer 1996), p. 33

[89] Gimon, p. 1

[90] "Cryptographie: Pourqoui faut-il liberaliser totalement la loi francaise," Imaginons un Reseau Internet Solidaire, pp. 5,6

[91] "Cryptography and Liberty: An International Survey of Encryption Policy," Global Internet Liberty Campaign, p. 5

been licensed to export potent 128-bit encryption have also had to commit themselves to building a key recovery system into the software.[93]

FBI director Louis Freeh has forthrightly expressed the government's (and presumably every law abiding citizen's) stake in restricting encryption. According to Freeh, electronic surveillance is "the most essential tool with respect to our ability to fight major drug rings, international terrorism, espionage - economic and otherwise - and all the other things that threaten the United States."[94] Without access to private encryption keys, Freeh concedes that the law enforcement community will likely be rendered incapable of doing its job. As evidence, he cites recent investigations where attempts to investigate plots to blow up an American airliner and assassinate the pope were hindered by legal obstacles to accessing encrypted records.[95] Most governments in developed countries have consistently held up the detrimental effects of encryption on national security and public safety in response to the scores of privacy advocates and business elites with a vested interest in the continuing advance of cyberspace. The findings of Denning and Baugh show that the total number of criminal cases worldwide involving encryption is approximately 500 with an annual growth rate of from 50 to 100%.[96] According to the same authors, powerful encryption in the wrong hands could lead to the failure to get evidence for convictions, failure to get evidence vital to criminal investigations, failure to avert catastrophic or harmful attacks, and failure to get foreign intelligence vital to national security.[97]

---

[92] "Microsoft Obtains Government License for Export of 128-Bit Encryption," *Press Pass*, p. 1
[93] "Now that US crypto export policy is declared unconstituional, what's next for RSA and Netscape?," *Sun World News*, p. 2
[94] "Speech Before the National Cryptography Institute," Speech by FBI Director Louis Freeh, p. 4
[95] ibid, p. 2
[96] Dorothy E. Denning and William E. Baugh, "Encryption and Evolving Technologies as Tools of Organized Crime and Terrorism," Excerpted from the full paper, U.S. Working Group on Organized Crime, p. 1
[97] Denning and Baugh, p. 1

Before the public debate is even over, of course, its content will most likely cease to be of any importance in restricting who has access to high-level encryption. Encryption is, after all, nothing more than math. The central equation in public key encryption applications is widely accessible, having been first published by a Swiss mathematician in the 1760s.[98] Books containing public key source code abound and can move unhindered from country to country, even where the actual physical exportation or importation of software is prohibited. There is no reason that any decent mathematician/programmer, living in Syria or Iran for example, could not write his own program in the privacy and anonymity of home or office. A recent article in *Forbes* confirms that at least one savvy young American has already done just that, having contracted with an unnamed third country with liberal laws on encryption export to produce his software for sale over the Internet.[99]

The fact is that advanced encryption like Zimmerman's "Pretty Good Privacy" is remarkably easy and inexpensive to acquire, regardless of the interested party's particular locality. More than 500 encryption products are currently being produced and marketed in 67 countries.[100] The case of encryption is analogous in many respects to the government's

---

[98] Josh McHugh, "Politics for the Really Cool," *Forbes*, 8 Sept 1997, p. 176
[99] ibid, p. 172

already well-demonstrated inability to regulate Internet pornography. Given the ease of purchasing strong crypto from a server located in a country with liberal export laws, terrorists, para-military groups, "cybercrooks," and other determined criminals are unlikely to let an official ban on unauthorized software prevent them from employing it in acts of fraud and sedition. Legitimate software manufacturers in the US, Britain, and Germany, on the other hand, will find their market reach severely hampered and their competitive position undercut by regulations that are ineffective. Private citizens who, for whatever reason, deemed it necessary to use unregistered encryption keys could be prosecuted and fined or jailed.

* * *

In addition to posing a serious threat to the ability of states to guard themselves and their populations, the widespread use of encryption in financial electronically based financial transactions will could destabilize government tax administration in the coming years. Talk of looming problems with Internet taxation may have originated with radical libertarian "cyberpunks," but it has made its way to the vaults of the U.S. Treasury, which is apparently concerned enough about the issue to have declared high technology areas like transactions over the Internet as a "top-priority" matter in 1996;[101] later in that year it released a lengthy report on the "Selected Tax Policy Implications of Global Electronic Commerce."[102] Tellingly, that report served more to highlight questions and doubts than to assuage fears. They are rightly worried. As was noted in the historical section of this paper, a centralized apparatus for the extraction and collection of taxes is one of the chief institutional

---

[100]"Now that US export policy is declared unconstitutional, what's next for RSA and Netscape?," *Sun World News*, p. 2

[101] Zak Muscovitch, "Taxation of Internet Commerce," Osgoode Hall Law School, Unpublished manuscript, p. 1

innovations of the modern state and, as such, one of its defining qualities. Access to Capital has always been essential to ensuring the state's power.

The IRS has estimated that it currently loses $120 billion per year due to unreported income.[103] That amount could soar if and when electronic commerce, with its high value-added content, is allowed to develop unhindered. Foremost among a series of potential problem areas identified by the Treasury's 1996 report were difficulties in ascertaining the tax jurisdiction of Internet transactions. The U.S. continues to levy taxes on income according to both its source and the residency of its recipients. And yet, the source of income that was acquired through electronic channels is fast becoming impossible to determine in many instances, so that source as a principle of taxation is almost certain to be "rendered obsolete."[104] With respect to the uniquely modern concept of a "national" trade or business that shares its identity with the state, the report observes the following:

> The concept of a U.S. trade or business was developed in the context of conventional types of commerce, which generally are conducted through identifiable physical locations. Electronic commerce, on the other hand, may be conducted without regard to national boundaries and may dissolve the link between an income-producing activity and a specific location. From a certain perspective, electronic commerce doesn't seem to occur in any physical location but instead takes place in the nebulous world of cyberspace. Persons engaged in electronic commerce could be located anywhere in the world and their customers will be ignorant of, or indifferent to, their location. Indeed, this is an important advantage of electronic commerce in that it gives small businesses the potential to reach customers all over the world.[105]

---

[102] "Selected Tax Policy Implications of Global Electronic Commerce," Office of Tax Policy, Department of the Treasury, U.S. Government
[103] McHugh, p. 174
[104] "Selected Tax Policy Implications of Global Electronic Commerce," p. 19

Given less vague expression, the state's problem could look something like this: A certain Japanese architect living in Singapore is hired by a general contractor in New York. The completed plans and the architect's paycheck are exchanged via Internet, maybe by way of an electronic banking establishment operating off of a server located in an unnamed Caribbean state. Now, did the architect offer his services in the U.S. and can he be held liable for tax on the income he earned?

Obviously, such questions lack meaning in light of the new medium of exchange. The conundrum persists for transactions involving digitized information, for example films, books, music, or software – those intangible, information-based commodities which are projected to account for a sizeable chunk of Internet trade. Treating the Internet as a self-contained place, as some lawyers working on the legal ramifications of electronic commerce have suggested,[106] is unlikely to be of much help since it would ultimately subject Internet transactions to taxation in multiple countries.

Difficulties in defining the jurisdiction of income appear rather insignificant, however, compared with the potential of electronic commerce for facilitating outright tax evasion. For even if the tangle of jurisdictions were able to be resolved, state exchequers around the world would find it nigh impossible to police the enormous volume of value-loaded transmissions traversing the information superhighway. The anonymous nature of digital cash transactions, coupled with the difficulty of penetrating encryption safeguards, should serve as a barrier to the ability of tax authorities to intercept value-laden transactions and accurately assess tax liability. The U.S. Treasury, for one, has made reference to the possibility of erecting "'toll-booths on the information-highway.'" However, the majority of

---

[105] ibid, pp. 20-21

Internet experts have roundly dismissed any such plan as unworkable in light of the Internet's "amorphous" and "decentralized" nature.[107] The cybereconomy will not brook the interference of customs agencies precisely because it has no borders that can be guarded.

The U.S. Treasury has also noted the possibility of regulating the "issuers" of electronic currencies as they are the crucial, and therefore exploitable, interfaces between the physical and the electronic economies.[108] Why are issuers so important? Tax payers are required to keep records of their transactions, usually on paper, so that they might verify that their statement was correctly completed if its accuracy is challenged. In the case of economic transactions completed electronically, however, any records are likely to be kept solely in the memory of a computer. Accordingly, falsifying or simply erasing the only existing records that an economic transaction ever took place is as easy as moving a mouse and clicking a few buttons.

Therefore, the only recourse that states have in attempting to preserve their power to tax a large sector of economic activity, is the regulation of intermediaries. Proposals requiring the legal certification of electronic payment service providers in the United States are presently under consideration. Such proposals have gone forth under the rubric of the Banking Secrecy Act of 1974, expanded to cover new contingencies. Regulations that require electronic payment service providers to disclose to the state detailed information on customers and their transactions are fundamentally at odds with the confidentiality inherent in digital money.[109]

---

[106] David R. Johnson and David G. Post, "Law and Borders –The Rise of Law in Cyberspace," *Stanford Law Review* (May 1996)
[107] Muscovitch, p. 8
[108] "Selected Tax Policy Implications of Global Electronic Commerce," p. 25
[109] Thomas E. Crocker, "Treasury Eyes Disclosures for Electronic Commerce," *The National Law Journal* 13 Oct 1997 p. 1

Commerce, of course, is not essential to tax evasion. As it becomes easier to manipulate large sums of money from home computers, the "criminal" and "unpatriotic" element might increasingly dare to elude the long arm of the IRS and other tax bureaucracies from Bonn to Tokyo. They will be aided in their cause by the growing number of offshore banks that have established a presence on the Internet.[110] There is also likely to be a rapid expansion in the underground economy, already a significant problem for many states.

* * *

The state, then, may soon find itself faced with a momentous choice. It may act to preserve its traditional powers of taxation by placing regulations on encryption and electronic monies. If governments pursue such policies, however, it is likely to stifle the development of Internet trade without actually preventing determined parties from hiding their incomes and laundering dirty money electronically. Alternatively, the state can yield to the competitive pressures that these new technologies are creating. New technologies empower the audacious taxpayer to decide just how much a government and its services are worth. If residency is to be the sole criterion for determining tax jurisdiction, the practice proverbally known as "voting with the feet" could once again become commonplace. Just as states are increasingly having to compete to attract global capital, they might soon be competing for the patronage of a class of wealthy, mobile taxpayers who would just as soon transfer their residence and their citizenship to Switzerland or the Bahamas than fork over fifty percent of their earnings every year to the state. If so, their leverage will be all the greater in Western, industrialized countries with progressive tax regimes where the very rich account for a hefty chunk of state income. In the U.S., for example, the richest 1% of the population pays 28.7%

---

[110] Linda Robinson and Doug Pasternak, "Rum sort of banking," *U.S. News and World Report* 28 Oct 1996, p. 40

of the income tax.[111] A recent *20/20* survey held that 12% of Americans said they would avoid paying income taxes if it were possible to do so with impunity. Twelve percent seems like a small fraction of the whole. But if it were the *right* twelve percent – and it almost assuredly would be – the consequent drain on government revenues would be devastating. Shopping for government, much as ships shop for flags, has never been easier.

In spite of the frothing fantasies of some "netizens," the 21st century is not likely to discredit Ben Franklin's witty dictum concerning death and taxes.[112] Capital will always require people rich enough to consume and a government that is at least strong enough to ensure stability and order in the market. A far more credible scenario then, is a noticeable fall in tax rates due to the downward pressures of competition. States will be compelled to abandon the income tax for more manageable levies, such as a VAT on tangible goods.[113]

* * *

It was described in the previous section how the globalization of large corporations and capital markets has divorced the interests and identities of those entities from that of any individual state. Electronic commerce promises to do the same for many small businesses and service providers worldwide - and once again at the expense of the state (in this case its ability to defend and its authority to tax).

I have already noted the immense economic potential[114] of the Internet. By nearly all accounts it is a gold mine waiting to be tapped. The material gains to be had from electronic

---

[111] Davidson and Rees-Mogg, p. 208

[112] Unless, of course, geneticists learn to switch off the "aging gene"

[113] Richard Rahn, "The New Monetary Universe and Its Impact on Taxation," Cato Institue Symposium on the Future of Money, p. 9

[114] Not to mention its implications for individual freedom and human rights. See the Global Internet Liberty Campaign's website at <http://www.gilc.org>

commerce are so enormous, in fact, that most governments find themselves compelled to take a conciliatory stance toward its proponents, the protests of government security and intelligence forces notwithstanding. Along those lines, the Global Internet Liberty Campaign has observed a decided trend toward liberalization of both international law and state policy on cryptography. Only a very few countries, including Russia, China, Israel, and Pakistan (all for the obvious reason of preventing especially active enemies of the state - both external and internal - from gaining the upper-hand), have stringent domestic controls on the use of encryption.[115]

It is still too early to really predict how these information technologies will develop. The next several years will be a proving period for electronic payment systems and encryption applications alike. It will have to be established which work and which don't

---

[115]"Cryptography.and Liberty: An International Survey of Encryption Policy," p. 5

before the trend toward Internet commerce gathers force. Like global capital, however, they seem to have the upper-hand. A columnist in *Newsweek* expressed the state's dilemma thusly: "Technologies can be like rivers, insisting on their natural course. It is possible to alter their directions, at great expense, by damming them. But you can't make them flow in the opposite direction."[116] In the case at hand, the cost is likely to be significant, no matter what course of action states choose.[117]

[116] Steven Levy, "Trying to Find the Key," *Newsweek* 14 Oct 1996, p. 91

NEW WORLD ORDER OR BRAVE NEW WORLD?

Just as the expansion of trade in the early centuries of this millennium redefined the parameters of economic interaction and set the stage for a teritorial state legitimated by the principle of internal and external sovereignty, so the present integration of national markets and the decentralizing forces of information technology are undermining that same state's efficacy as a unit of governance. And efficacy in governance, when it comes right down to it, always has been at the heart of the matter. Accordingly, John Dunn notes that while "the appeal of the idea of Nation has nothing to do with efficacy... the appeal of the idea of State has almost everything to do with efficacy." Therefore, "the normative appeal of the idea of the state is inherently vulnerable to a sense of political crisis."[118] As I hope to have established in the preceding two sections, what "crisis" refers to in the contemporary case are the grave threats that economic globalization and information technologies pose to the national state.

The parallels between past and present are so manifold as to be startling.

* * *

Over the century following1445, Gutenberg's printing press revolutionized the way in which European society stored and transmitted information. By breaking the medieval monastery's control over the dissemination of knowledge, the printing press undercut the power base, and eventually, the legitimacy, of a universalist Catholic Church, thereby clearing the way for new forms of political organization. Likewise, modern telecommunications have given rise to an intangible, yet very real world

---

[117] For the latest information on the subject see the U.S. Department of Commerce's report, released on April 15, 1998, at the website: <http://www.ecommerce.gov>

known as cyberspace. Internet and satellite communications transcend the "tyranny of place."[119] They know no boundaries and are practically immune to the threat or use of force. While the free world watched in real time, the Soviet Union painfully learned how these new, ethereal powers could crumple an empire, as sure as the conquerors of days past resorted to brute strength and sheer numbers.

* * *

In late-medieval Europe, the invention of firearms and expensive new fortifications fundamentally altered the returns to employing violence, leading to the creation of large standing armies that only centralized states could effectively raise and employ. The years between 1492 and 1945 were marked by rising returns to violence, and the modern state was the most fit political unit for capitalizing on that fact. In our century, innovation in weaponry and military science has once again rewritten the logic of violence. The world's great powers now possess the ability to bring about a destruction so complete as to make its use absurd.[120] Under such conditions, the risk of precipitating a nuclear holocaust serves as a powerful deterrent to large-scale, great power war. Mutually assured destruction means diminishing returns to violence at the specialized, state level. The past ten years have demonstrated that the imminent danger is less that of great power confrontation than of simple accident or nuclear terrorism. Military force of the conventional kind is still employed within and between a number of less developed countries but with limited consequences for the international order as a whole.

---

[118] John Dunn (ed.), *Contemporary Crisis of the Nation State?*, (Oxford: Blackwell, 1995) p.5

[119] Davidson and Rees-Mogg, p. 183 These authors deal at length with the idea of varying returns to violence across time and how such fluctuations have shaped the course of history.

[120] Though, given their track record, not all that improbable.

The nature of warfare is again evolving, only this time it is considerably less evident that it will favor the sovereign, territorial state as it did more than five hundred years ago. The Gulf War - which has been characterized as the first post-modern war - was marked chiefly by its self-limitation, the strategic precision of its scope, and its primarily commercial motivations. Raw firepower and sheer numbers are giving way to technological ingenuity and prowess as the deciding factors in the outcome of a battle. Wars are fast becoming contests of precision; more perfect information at all stages of command both lessens war's cost and shortens its course.[121] Unlike the wars of the modern state, those of the twenty-first century will not be big, sloppy, and prolonged but primarily short and urban, albeit more frequent.[122]

In the short-run, of course, the advent of "tech-war" gives rich states like the U.S., Britain, and France a decided military advantage. Joseph Nye and William Owens have even gone so far as to suggest that the 21st century, not the 20th, will prove the true age of American preeminence.[123] In time, however, that advantage inevitably will be mitigated. A recent article in *Forbes* notes that "... as Moore's Law makes the high-tech materiel of war more affordable, every violent crook and two bit dictator may be able to use it."[124] Stereos, computers, and "smart" bombs will all be cheaper in the decades to come.

The diffusion of military-grade weaponry promises to seriously undermine the state's historical monopoly on violence within its borders. In Russia, Thailand, Columbia, and other states, crime syndicates and drug cartels have already begun to compete with governments for the fruits that coercion commands. The situation will be exacerbated by the inability of

---

[121] Philip E. Ross, "The End of Infantry?," *Forbes* 7 July 1997 p. 182

[122] Kaplan, "Fort Leavenworth and the Eclipse of Nationhood," *The Atlantic Monthly* 278 (September 1996) p. 86

[123] Joseph S. Nye and William Owens, "America's Information Edge," *Foreign Affairs* 75: 20-37

states – for reasons related to the Internet and encryption – to effectively monitor the activities of such groups. The Net itself could become a frontier for information warfare; criminal organizations and "rogue" states will remotely detonate "logic bombs" with incapacitating results for power grids, communications networks, and other very vulnerable parts of the fragile technostructure that undergirds life in the more developed countries.[125]

As if this assault on the state's military superiority were not sufficient challenge, there is cause to doubt that states – at least those of the advanced, democratic sort - will even be capable of maintaining large military forces. The potential effects of the burgeoning electronic trade and banking sector on the state's tax base have been described in detail. Recall that prior to the modern state's inception, the maintenance of large standing-armies had been an anomaly, the exception rather than the rule. As European states consolidated, they acquired complementary monopolies on violence and taxation which enabled them to finance the military operations necessary to ensure their survival and weed out competitors. Today, both of those crucial monopolies are in danger. Rather than upholding a nation's sovereignty, armies in the future may be mere mercenary providers of a purely economic need: security. If so, it would be nothing that the world has not already seen.

The modern state is beset on all sides; once a far-ranging and savage predator, it is now on a much shorter leash.

* * *

If the extractive apparatus of the state has ever suffered any restrictions, or brooked any outside influence, it has usually been due to the leverage that the owners of Capital have exercised over it. City-dwelling merchants and cross-border traders in Western Europe

---

[124] Ross, p. 182

pacted with centralizing state-builders because they found their interests were more closely aligned with those of kings than with those of barons and dukes and bishops. The burghers benefited from fewer political borders and a uniform system of weights and measures, and were, therefore, amenable to the destruction of the old feudal order in which they had neither a well-defined place nor an economic stake. They played an important part in hastening the obsolescence of the Church's body of canonical law with its prohibition of usury and its moral condemnation of the profit motive. Only with the backing of this class did the earliest state-building efforts succede and by competitive pressure extend their breed of political organization to the rest of Europe and the world. Today's repositories of Capital wield a similar influence over the shape of political institutions and the course of their evolution. The biggest difference is that the interests of Capital are no longer tied to old national territories; they transcend political borders. Competition is no longer international; it is global. While transnational Capital has an acute need for competent governance, it finds a world that is fractured into states with heterogenous laws and worldviews to be a considerable drag on its profit-line. Thus it now works to weaken the state rather than to fortify it, to subvert its will to the logic of the market. Benjamin Barber states the nature of the present changes forcefully when he writes that "[t]here is no activity more intrinsically globalizing than trade, no ideology less interested in nations than capitalism, no challenge to frontiers more audacious than the market."[126] For this growing class of "information elites" citizenship may be going the way of chivalry.[127]

---

[125] Davidson and Rees-Mogg, p.341
[126] Benjamin R. Barber, *Jihad vs. McWorld*, (New York: Ballantine Books, 1996) p. 24
[127] Davidson and Rees-Mogg, pp. 87-95

Even after five hundred years of political evolution we see that Tilly's keen insight into the creative dynamics of Coercion and Capital still enlightens our understanding of how institutions are born and how they die.

* * *

The expansion of cross-border trade in high- and late-medieval Europe brought with it a degree of monetarization of the economy which had theretofore been unknown. Paper money, information, banking services and financial markets were innovative responses to new incentives for making long-distance trade more efficient and hence, more profitable. Transporting bulky chests full of metal coins was not only dangerous, it was also extremely expensive. Similarly, the development of electronic money and encryption software are analogous steps in the drive to take full advantage of the Internet's economic potential. Without a secure, anonymous, and authenticateable way of instanteously transmitting value, growth of electronic commerce is likely to be severely retarded. Just as before, the incentives to make it work are abundant, political barriers notwithstanding. And for the moment it is the capitalists, not the coercion-wielders, who are holding all the cards.

* * *

What can we take away from this juxtaposition of past and present? What visions of the future, if any, does our inquiry conjure? Are this paper and the work on which it is based all "obituaries for the state."[128] It has so often been the case that institutions and individuals seemingly in their prime suddenly and inexplicably disappear from their respective landscapes. If the sovereign, territorial state and the international system it has created perish

[128] Tilly, p. 638

over the course of the next century, it will be because it has outlived its usefulness to those who influence its existence.

Having questioned the realist assumptions of endemic global anarchy, there remain some other prisms through which to interpret present changes. One of the more prominent and typical of biases -liberal internationalism - has been towards a view of political evolution as a kind of moral progress. Liberal theorists have always stressed the importance of international organizations in modifying and redirecting the interests of individual states toward a common end, be it security, prosperity, or some other public good. They regard the system of sovereign states as an inherently flawed way of organizing human affairs and as a consequence, have consistently worked to strengthen intergovernmental institutions like the United Nations and international legal regimes like that for prisoners of war built around the Red Cross. It is possible, they contend, for states to transcend short-sighted , particularistic interests by, in effect, pooling their sovereignty. Central to that process is the elaboration and promulgation of new norms of international behavior. Over a period testing and of legitimation, previously immaterial norms become a substantive basis for international conduct. In such a way, global issues can, and eventually will be, dealt with at the global level. Therefore, liberal internationalists would assert that any cession of power and authority by States to global institutions is the next phase in the course of human society. Power and authority remain in the hands of public institutions and pursue the public's interests by putting an end to violent global conflicts, unequal distributions of wealth, etc.

How does this vision match up to contemporary developments? Not all that well actually. The wave of idealism that rose in the wake of communism's debacle - envisioning a broadened, more active role for public international organizations like the UN - has broken,

its power all but spent.[129] One need only mention Bosnia, Somalia, and Rwanda to quash liberal protests. When so long-standing and eminent an internationalist as Richard Falk, lamenting the rise of a world in which decisions concerning public goods are made by narrow private interests, wishes wistfully for a return to a society of sovereign states with its latent "potentialities for moral evolution," the case for a more robust public authority at the global level over the short- to middle-run would appear especially unconvincing.[130] The problem with normative conditioning as as agent for change in international behavior is that the range of viable norms is often severely constricted by material interests and circumstances. To be sure, norms are inherent in any order. But they are prone to be made to serve the ends of powerful, particularistic interests - be they military or economic.

If there is to be no "new world order," then what exactly are we to expect? I stated at the outset that it was not my intention to attempt to beat time at its own game. And yet, the question remains dangling tantalizingly over our heads.

* * *

Thinking in terms of Spruyt's adaptation of the punctuated equilibrium model, we might conceive of the present situation in terms its two phases: *generation* and *selection.* We should begin, therefore by identifying some institutions that can be construed as early responses to the state's failing power. Political entities that are inherently non-spatial or trans-spatial – similar to Church and Empire in medieval Europe – must also be considered as potentially viable.

A strong WTO and IMF would seem to fit well with the interests of global Capital, and their influence does seem to have waxed in recent years. Both, however, are financially

---

[129] Michael N. Barnett, "Bringing in the New World Order: Liberalism, Legitimacy, and the United Nations," *World Politics* 49 (July 199) p. 527

dependent on member states. Ultimately, neither institution will be free to act autonomously unless they extricate themselves from that relationship of dependence. Should the state's tax revenues begin to dwindle, it will be interesting to see if private interests offer to pick up the tab or move to create new, similar institutions of their own.

Supranational entities - of which the European Union is presently the only specimen - are another alternative. In many respects, however, the EU represents an attempt to escape from the competitive pressures of globalization. Moreover, the union's final shape and content are as yet uncertain and will depend in large part on the prevailing economic conditions and climate of opinion. There is also good reason to doubt that any similar institution could be forged outside of the European continent.

Other contenders include private agencies serving regulatory functions, such as Moody's or Standard and Poors, both of which were mentioned earlier herein. As wild an idea as it may seem, organized crime groups and global corporations might even arrive at the point where they are effectively administering territory, although the reality of their power is unlikely to be quite so blatant.

And then, of course, there is the State. For to suggest that the State is losing its sovereign character is not the same thing as asserting that it will vanish *in toto*. The only contention this paper makes is that sovereignty will cease to hold water as a universally accepted, systems-level norm. My argument does not preclude that some truly sovereign states will survive the competitive pressures of the next decades and thrive in the new era of geopolitical relations.

Heretofore, I have generally made reference to the state as if it were a uniform entity. Nothing could be farther from the truth. In reality, the only common characteristic that all

---

[130] Richard Falk, "State of Siege: Will globalization win out?" *International Affairs* 73:1(1997) p. 125

states currently possess is juridical autonomy. The disparities and dissimilarities among them are far more significant; indeed, one alternative to generating entirely new institutions is picking and choosing from among the best of the old. Their differences, then, may prove the critical factor in determining which states are selected by the new "social coalitions" and which are discarded. British diplomat Robert Cooper has delineated three rough "categories" of presently existing state: pre-modern, modern, and post-modern.[131] The pre-modern states – Rwanda, Somalia, Afganistan – are primarily characterized by chaos, and Cooper suggests that in the future they may be left to disintegrate and their peoples to wallow in their own muck by the increasingly unsympathetic and disillusioned affluent communities in the cultural West. The modern states, including China, Brazil, and to some extent the United States, are nationalistic and make frequent appeals to the principle of sovereignty. Post-modern states, primarily those of Europe, are more inclined to sacrifice sovereignty in order to reach other goals through cooperation.

Though conditions are palpably horrendous in many pre-modern states, that is not to say that the position of the latter two groups of states is any less precarious. Of late, post-modern states from Japan to Europe to North America are finding themselves overextended, having made numerous commitments to their populations which they are no longer capable of sustaining under the competitive pressures imposed by global capital. Those liabilities will not be easily circumvented and may actually prove serious obstacles to the survival of post-modern states as a group. They hold the potential for sparking violent social conflict, as those who feel alienated and disenfranchised by the Information Revolution react against change.[132] Widespread unrest in the more developed countries is a very real possibility given

---

[131] "Not quite a new world order, more a three-way split," *The Economist* 20 Dec 1997, pp. 17-19
[132] Davidson and Rees-Mogg, pp. 240-308

that globalization seems to favor the laissez-faire state over the welfare state. The problem is that for many, the welfare state may be the only thing that makes globalization palatable.

Just how each state fares in the selective phase of political unit change will depend upon its internal cohesion and the degree of external pressure that is brought to bear on it. Thus Japan, Singapore, and Denmark may make it to 2050; Canada, Belgium, and Russia may not.

* * *

Sovereignty mattered as long as wealth was tied to territory. As commerce in medieval Europe expanded, those rulers able to subjugate and exploit large tracts of land proved the most successful. Economic globalization and the information economy, on the other hand, have largely transcended barriers of time and distance. In the process they have broken the very pedestal on which sovereignty rested.

Rather than another overarching principle rising to fill sovereignty's place, the immediate decades ahead will see a proliferation of institutional types and the advent of multi-layered, translocal jurisdictions not all that unlike those which existed in medieval Europe. Accordingly, the trend toward such a "refragmentation" or "unbundling" of sovereignty has been denominated "the new medievalism."[133] It is a persuasive scenario for future political organization because it is in accord with both the centralizing tendencies of economic globalization and the declining efficiency of large-scale political units. At the global economic level it implies more order, at the local level it guarantees considerably less.

And what, if anything, comes after that? Well, maybe I had better stop there.

WORKS CITED

Barber, Benjamin R. *Jihad vs. McWorld: How Globalism and Tribalism are Reshaping the World.* New York: Ballantine Books, 1996

Barker, Rodney. *Political Legitimacy and the State.* Oxford: Clarendon Press, 1990.

Barnett, Michael N. "Bringing in the New World Order: Liberalism, Legitimacy, and the United Nations." Rev. of *Agenda for Peace* by Boutros Boutros-Ghali, *Our Global Neighborhood* by the Commission on Global Governance, *Cooperating for Peace* by Gareth Evans, and *The United Nations in its Second Half-Century* from the Report of the Independent Working Group on the Future of the United Nations. *World Politics* 49 (July 19): 526-27.

Bell, Daniel. *The Coming of Post-Industrial Society: A Venture in Social Forecasting.* (New York: Basic Books, 1973)

"Beware the cyber-regulator." *The Economist* 23 Aug. 1997: 56-7.

Biersteker, Thomas J. and Cynthia Weber (eds.) *State Sovereignty as Social Construct.* Cambridge: Cambridge University Press, 1996.

Bodin, Jean. *On Sovereignty*, trans. Julian H. Franklin. Cambridge: Cambridge UP, 1992.

"Broken Code: Taxes in Russia." *The Economist* 25 Oct. 1997: 81-2.

Brown, Seyom. *New Forces, Old Forces, and the Future of World Politics.* (Glenview, IL: Scott, Foresman and Company, 1988)

Builder, Carl H. "Is It a Transition or a Revolution?" *Futures* (March 1993): 155-68.

"Clipper Chip" *PC Webopaedia.* 18 Nov 1996 <http://www.pcwebopedia.com/clipper_chip.htm>

Cook, William J. "Scrambled signals from Washington." *U.S. News and World Report* 14 Oct 1996 p. 64.

Crede, Andreas. "Electronic Commerce and the Banking Industry: The Requiement and Opportunities for New Payment Systems Using the Internet." Science Policy Research Unit, University of Sussex. pp. 1-20. <http://www.usc.edu/dept/annenberg/vol1/issue3/crede.html>

Crocker, Thomas E. "Treasury Eyes Disclosures for Electronic Commerce." *The National Law Journal.* 13 Oct 1997

"Cryptographie: Pourquoi faut-il liberaliser totalement la loi francaise" Imaginons un Reseau Internet Solidaire. pp. 1-10. <http://girnfe.emsba.fr/iris/rapport-ce/annexe7.html>

"Cryptography and Liberty: An International Survey of Encryption Policy." Global Internet Liberty Campaign. pp. 1-8. <http://www.gilc.org/>

Dam, Kenneth and Herbert S. Lin. "National Cryptography Policy for the Information Age." *Issues in Science and Technology* 12 (Summer 1996): 33-8.

Davidson, James Dale and William Rees-Mogg. *The Sovereign Individual: How to Survive and Thrive During the Collapse of the Welfare State.* New York: Simon and Schuster, 1997

Denning, Dorothy E. and William E. Baugh. "Encryption and Evolving Technologies as

---

[133] Anne-Marie Slaughter, "The Real New World Order," *Foreign Affairs* 75:6 (Sept/Oct 1997): 183-97

Tools of Organized Crime and Terrorism." Excerpted from the full paper. U.S. Working Group on Organized Crime. <http://www.sims.berkeley.edu/~pam/courses/cyberlaw/syllabus.html>

Drucker, Peter F. "The Global Economy and the Nation-State." *Foreign Affairs* 76:5 (Sept./Oct. 1997): 159-71.

Dunn, John (ed.). *Contemporary Crisis of the Nation State*? Oxford: Blackwell, 1995.

Dunning, J. H. *The Globalization of World Business: The Challenge of the 1990's.* London: Routledge, 1993.

"The Emasculation of Lucifer and Other Tales of the NSA." *Smart Publications* <ftp://ftp.crl.com/users/ro/smart/TFP?

"Emerging Japanese Encryption Policy" by Stewart A. Baker, Steptoe and Johnson. <http://www.us.net/~steptoe/welcome.htm>

Evans, Peter. "The Eclipse of the State?" *World Politics* 50 (Oct. 1997): 62-87.

Falk, Richard. "State of Siege: Will globalization win out?" *International Affairs* 73:1 (1997): 123-36.

Ferguson, Yale H. and Richard W. Mansbach. *The State, Conceptual Chaos, and Future of International Relations Theory.* Boulder: U of Denver P. 1989.

Fowler, Michael Poss and Julie Marie Bunck. *Law, Power, and the Sovereign State* Universtiy Park, PA: Pennsylvania State UP, 1995.

"A Framework for Global Electronic Commerce" Executive Branch (Office of the President); U.S. Government: Draft #9-December 11, 1996. <http://www.iitf.nist.gov/eleccomm/glo_dinn.htm>

Galli, Riccardo. "Structural and Institutional Adjustments and the New Technological Cycle." *Futures* (October 1992): 775-88.

"A gift of tongues." *The Economist* 18 Oct. 1997: 81-2.

Gimon, Charles A. "Say It Ain't So, Morilla." *InfoNation.* <http://www.info-nation.com/mozilla.htm>

"Global Partnership for E-Commerce." Interview with Ira Magaziner by Edmund F. Scherr. pp. 1-5. <http://www.usin.gov/journals/itgic/1097/ijge/gj-3.htm>

Handelman, Howard. *The Challenge of Third World Development.* Upper Saddle River, NJ: Prenctice Hall, 1996.

Hanke, Steve H. "Globalization is globalbaloney." *Forbes* 1 Jan 1996: 56

Harkavy, Robert E. "Images of the Coming International System.' *Orbis* 41:4 (Fall 1997): 569-90.

Hinsley, F.H. *Sovereignty.* Cambridge: Cambridge UP, 1986.

Huber, Peter. "Cyberpower." *Forbes* 2 Dec 1996. 58: 131-42.

James, Alan. *Sovereign Statehood: The Basis of International Society.* London: Allen and Unwin, 1986.

Jackson, Robert H. *Quasi-States: Sovereignty, International Relations, and the Third World.* Cambridge: Cambridge UP, 1990.

Johnson, David R. and David G. Post. "Law and Borders – The Rise of Law in Cyberspace." Published in Stanford Law Review (May 1996) <http://www.cli.org/X0025_LBFIN.html>

Kaplan, Robert D. *The Ends of the Earth: A Journey to the Frontiers of Anarchy.* New York: Random House, 1996.

-----. "Fort Leavenworth and the Eclipse of Nationhood." *The Atlantic Monthly* (Sept 1996): 75-90.

Kenney, Martin. "The Role of Information, Knowledge and Value in the Late 20th Century." *Futures* 28:8 (1996): 695-707.

"Kill or cure?" *The Economist*. 10 Jan. 1998: 13-14.

Kobrin, Stephen J. "Electronic Cash and the End of National Markets." *Foreign Policy* 107 (Summer 1997): 65-77.

Lauterpacht, Eli. "Sovereignty-myth or reality?" *International Affairs* 73:1 (1997): 137-50.

Levy, Steven. "Trying to Find the Key." *Newsweek* 14 Oct 1996, p. 91

McCarthy, Patrick and Erik Jones (eds.). *Disintegration or Transformation? The Crisis of the State in Advanced Industrial Societies*. New York: St. Martin's Press, 1995

McHugh, Josh. "Politics for the Really Cool." *Forbes* 8 Sept. 1997: 172-9.

"Microsoft Obtains Government License for Export of 128-Bit Encryption." *Press Pass*. June 1997: 1-3. <http://www.microsoft.com/corpinfo/press/1997/jun57/encryptnpr.htm>

Muscovitch, Zak. "Taxation of Internet Commerce." Osgoode Hall Law School. Unpublished manuscript. pp. 1-10. <http://info.cf.ac.uk/uwcc/masts/ecic/tax1.html>

"New illness, same old medicine." *The Economist* 13 Dec 1997: 65-6.

"The Next Balance of Power: a geopolitical detective story." *The Economist* 3 Jan. 1998: 17-9.

"Not quite a new world order, more a three-way split." *The Economist* 20 Dec 1997: 41-3.

"Now that US crypto export policy is declared unconstitutional, what's next for RSA and Netscape?" *Sun World News*. pp. 1-3 <http://www.sun.com/sunworld online/swol-01-1997/swol-01encryptruling.html

Nye, Joseph S. and William Owens. "America's Information Edge." *Foreign Affairs* 75: 20-37.

"One world?" *The Economist* 18 Oct. 1997: 79-80.

Pieterse, Jan Nederveen. Rev.of *Post-Fordism: A Reader* by Ash Amin, *Globalization in Question* by Paul Q. Hirst and Grahame Thompson, *Limits to Competition* by the Group of Lisbon, *Promoting Development* by Marie Jo Griesgraber and Bernard G. Gunter (eds.), and Development: New Paradigms and Principles for the 21st Century by Mary Jo Griesgraber and Bernard G. Gunter. *Development and Change* 28:2 (April 1997): 367-382.

"Public Key Systems" *Smart Publications* <ftp://ftp.crl.com/users/ro/smart/TFP/publickey.html>

Robinson, Linda and Doug Pasternak. "Rum sort of banking." *U.S. News and World Report*. 28 Oct 1996: 38-41.

Rahn, Richard. "The New Montary Universe and Its Impact on Taxation." Cato Institute Symposium on the Future of Money. <http:// www.cato.org/moneyconf?14mc-9.html>

Raysman, Richard and Peter Brown. "The Changes Coming with Electronic Banking." *The New York Law Journal* (May 13, 1997). *Law Journal Extra!* <http://www.ljextra.com/internet/0513ebank.html>

Rosenau, James N. and Erst-Otto Czempiel (eds.). *Governance Without Government: Order and Change in World Politics*. Cambridge: Cambridge UP , 1992.

Ross, Philip E. "The end of infantry." *Forbes* 7 July 1997: 182-186.

Sassen, Saskia. *Losing Control? Sovereignty in an Age of Globalization.* (New York: Columbia UP, 1996)

Scholte, Jan Aart. "Global Capitalism and the State." *International Affairs* 73:3 (1997): 427-52.

Slaughter, Anne-Marie. "The Real New World Order." *Foreign Affairs* 76:5 (Sept./Oct. 1997): 183-97.

"Small but perfectly formed." *The Economist* 3 Jan. 1998: 65-7.

"Speech Before the International Cryptography Institute." Louis Freeh, Director of the FBI. 21 Sept 1995. <http://www.fbi.gov>

Spruyt, Hendrik. *The Sovereign State and Its Competitors*. Princeton: Princeton UP, 1994.

Sternberg, Ernest. "Transformations: The Eight New Ages of Capitalism" *Futures* Dec. 1993: 1019-40.

Talib, Ahmad A., Salful Azhar, and K. Bala, "Chirac: Currency Trading Rules Vital," *New Straits Times* 18 Nov 1997, 1:1-2,2:5.

Tanaka, Tatsu. "Possible Economic Consequences of Digital Cash." Center for Global Communication, International University of Japan. pp. 1-16. <http://www.isoc.org/isoc/whatis /conferences/inet/96/proceedingsb1/b1_1.htm>

Tapscott, Don. *The Digital Economy: Promise and Peril in the Age of Networked Intelligence*. NewYork: McGraw-Hill, 1996.

Tilly, Charles (ed.). *The Formation of National States in Western Europe*. Princeton, NJ: Princeton UP, 1975.

Tilly Charles. *Coercion, Capital, and European States, AD 990-1990*. Cambridge, MA: Basil Blackwell, 1990.

Toffler, Alvin (ed.) *The Third Wave*. New York: William Morrow and Company, 1980.

Tonn, Bruce and David Feldman. "Non-Spatial Government." Futures 27:1 (1995): 11-36.

Wolhandler, Harold. "The Internet and Global Trade." Activmedia, Inc. pp. 1-8. <http://www.usia.gov/journals/itgic/1097/ijge/gj-ll.htm>

Wriston, Walter B. "Bits, Bytes, and Diplomacy." *Foreign Affairs* 76:5 (Sept./Oct. 1997): 172-82.

-----. *The Twilight of Sovereignty: How the Information Revolution is Transforming Our World*. New York: Charles Scribner's Sons, 1992.