The Constitutional Structure of International Society and the Nature of Fundamental Institutions

Christian Reus-Smit

Modern states have constructed a multiplicity of issue-specific regimes to facilitate collective action. The majority of these institutions are specific instances of the deeper institutional practices that structure modern international society, notably the fundamental institutions of contractual international law and multilateralism. Two observations can be made about fundamental institutions. First, they are ''generic'' structural elements of international societies.[1] That is, their practice transcends changes in the balance of power and the configuration of interests, even if their density and efficacy vary. The modern practices of contractual international law and multilateralism intensified after 1945, but postwar developments built on institutional principles that were first endorsed by states during the nineteenth century and structured international relations long before the advent of American hegemony. Second, fundamental institutions differ from one society of states to another. While the governance of modern international society rests on the institutions of contractual international law and multilateralism, no such institutions evolved in ancient Greece. Instead, the city-states developed a sophisticated and successful system of third-party arbitration to facilitate ordered interstate relations. This institution, which operated in the absence of a body of codified interstate law, is best characterized as ''authoritative trilateralism.''

The importance of fundamental institutions has long been acknowledged by international relations scholars.[2] Yet existing perspectives on international institutions

I wish to thank the following people for their thoughtful comments on earlier versions of this article: Robyn Eckersley, James Goldgeier, Amy Gurowitz, Michael Janover, Peter Katzenstein, Audie Klotz, Margaret Nash, Richard Price, Heather Rae, Gillian Robinson, Henry Shue, David Strang, Alexander Wendt, members of the Melbourne International Relations Theory Group, seminar participants at Cornell and Yale Universities, and the anonymous referees at *International Organization*. I also thank Margaret Nash for her extensive research assistance, and gratefully acknowledge the financial support provided by an SSRC-MacArthur Foundation Fellowship on Peace and Security in a Changing World, and by the Faculty of Arts at Monash University.

1. See Ruggie 1993a, 10; Bull 1979, 68–73; and Wight 1977.
2. See Morgenthau 1949, 279; Bull 1977; Keohane 1989, 162–66; and Young 1986, 120.

International Organization 51, 4, Autumn 1997, pp. 555–89

have difficulty accounting for either the generic nature of basic institutional practices or institutional differences between societies of states. Neorealists argue that institutions reflect the prevailing distribution of power and the interests of dominant states. These are ambiguous indicators, however, of basic institutional forms; fundamental institutions persist despite shifts in the balance of power, and under the same structural conditions, modern and ancient Greek states engaged in different institutional practices. Neoliberals claim that states create institutions to reduce the contractual uncertainty that inhibits cooperation under anarchy, arguing that the nature and scope of institutional cooperation reflect the strategic incentives and constraints posed by different cooperation problems. Yet, because states can choose from a range of equally efficient institutional solutions, neoliberals have to introduce structural conditions, such as hegemony and bipolarity, to explain the basic institutional practices of particular historical periods. Like neorealism, this approach fails to explain institutional forms that endure shifts in the balance of power and is contradicted by the emergence of different fundamental institutions under similar structural conditions. Constructivists argue that the foundational principle of sovereignty defines the social identity of the state and, in turn, constitutes the basic institutional practices of international society. Sovereign states are said to face certain practical imperatives, of which the stabilization of territorial property rights is paramount. The institution of multilateralism, they claim, evolved to serve this purpose. While this line of reasoning is suggestive, it fails to explain institutional differences between societies of sovereign states. The ancient Greek city-states also faced the problem of stabilizing territorial property rights, yet they instituted a system of arbitration, not multilateralism.

This article draws on the insights of communicative action theory and the institutional histories of different societies of states to develop a new constructivist account of fundamental institutions. Like other constructivists, I ground fundamental institutions in the underlying normative foundations of international society. Constructivists have so far failed to recognize the full complexity of those foundations, however, attaching too much explanatory weight to the organizing principle of sovereignty. Sovereignty has never been an independent, self-referential value; it has always been embedded in larger complexes of constitutive metavalues that together structure international societies. To facilitate systematic comparisons across historical societies of states, I conceptualize these complexes as *constitutional structures*, ensembles of three deep constitutive values: a shared belief about the moral purpose of centralized political organization, an organizing principle of sovereignty, and a norm of pure procedural justice. The moral purpose of the state represents the core of this normative complex and provides the foundations for both the principle of sovereignty and the norm of pure procedural justice, thus determining standards of legitimate statehood and rightful state action. The prevailing norm of pure procedural justice constitutes and constrains institutional design and action, leading states to adopt certain basic institutional practices. Because societies of states develop different constitutional structures, they evolve different fundamental institutions. The second half of

the article illustrates this theory through a comparison of ancient Greek and modern institutional practices.[3]

To fully understand the institutional dimension of international politics we must address two interrelated questions: Why do states create certain sorts of institutions, and how do these institutions affect state behavior? The first question concerns *form*, the second *efficacy*. Most research on international institutions concentrates on the latter question, with neoliberals marshaling a powerful argument that international regimes matter, and that without such institutions contemporary relations between states would be very different.[4] By comparison, the question of institutional form has received little sustained attention.[5] This means that the basic institutional practices of international societies have gone unexplained, and we have few insights into the sources of institutional innovation and the limits of institutional adaptation in particular historical contexts. Beginning from the assumption that international institutions exert an important influence on relations between states, this article takes up the neglected question of institutional form. It seeks to explain the nature of fundamental institutions and why they vary from one society of states to another. In the process it clarifies the normative foundations of international societies, sovereignty, and legitimate statehood, and it emphasizes the cultural and historical contingency of institutional rationality.

Fundamental Institutions Defined

When seeking to define fundamental institutions, the challenge of achieving and sustaining international order represents an appropriate starting point. Following Hedley Bull, I define international order as ''a pattern of activity that sustains the elementary or primary goals of the society of states, or international society.''[6] Bull identifies these goals as security, the sanctity of agreements, and the protection of territorial property rights. In the pursuit of international order, states face two basic types of cooperation problems: problems of collaboration, where they have to cooperate to achieve common interests; and problems of coordination, where collective action is needed to avoid particular outcomes.[7] To deal with these problems, societies of states evolve fundamental institutions. Institutions, in general, are commonly defined as ''persistent sets of rules (formal and informal) that prescribe behavioral roles, constrain activity, and shape expectations.''[8] *Fundamental institutions are those elementary rules of practice that states formulate to solve the coordination and collaboration problems associated with coexistence under anarchy.* Fundamental institutions

3. This article draws on arguments and material presented in my forthcoming book *The Moral Purpose of the State: Social Identity and Institutional Action*, to be published by Princeton University Press.
4. See Krasner 1983; Keohane 1984, 1989; and Stein 1990.
5. An exception is John Gerard Ruggie's recent work on multilateralism; Ruggie 1993a, 1996.
6. Bull 1977, 8.
7. Stein 1990, 39–44.
8. Keohane 1989, 3.

are produced and reproduced by basic institutional practices, and the meaning of such practices is defined by the fundamental institutional rules they embody.[9] Because of this mutually constitutive relationship, the terms *fundamental institution* and *basic institutional practice* are frequently used interchangeably, a practice maintained throughout this article.

Societies of states usually exhibit a variety of basic institutional practices. In modern international society scholars have identified bilateralism, multilateralism, international law, diplomacy, and management by great powers. Similarly diverse lists could be made of basic institutions in other societies of states, including that of ancient Greece. This having been said, societies of states tend to privilege certain fundamental institutions, albeit different ones. For instance, although Athens briefly experimented with multilateralism in the fourth century B.C.E., arbitration endured for centuries as the dominant fundamental institution of ancient Greece. Although cases of arbitration occurred in the nineteenth century, contractual international law and multilateralism have become the dominant institutional practices governing modern international society. This article is concerned with these dominant fundamental institutions, and the theoretical framework advanced here is designed to explain why different societies of states privilege different basic institutional practices.

From the perspective advanced here, institutions operate at three levels of modern international society. As Figure 1 illustrates, constitutional structures are the foundational institutions, comprising the constitutive values that define legitimate statehood and rightful state action; fundamental institutions encapsulate the basic rules of practice that structure how states solve cooperation problems; and issue-specific regimes enact basic institutional practices in particular realms of interstate relations. These three tiers of institutions are ''hierarchically ordered,'' with constitutional structures constituting fundamental institutions, and basic institutional practices conditioning issue-specific regimes.

Existing Explanations

Neorealism

Since neorealists believe that ''institutions have minimal influence on state behavior,''[10] they have devoted little systematic attention to explaining basic institutional practices. They simply argue that the possibility and nature of institutional cooperation between states are heavily conditioned by the prevailing distribution of power and configuration of interests. Institutional cooperation is considered most likely under conditions of hegemony, when a dominant state can create and enforce the rules of the international system, and dominant states tend to create and maintain institutions that further their interests and maximize their power.[11] As an explanation

9. Rawls 1955.
10. Mearsheimer 1994/95, 7.
11. See ibid., 13; and Gilpin 1981.

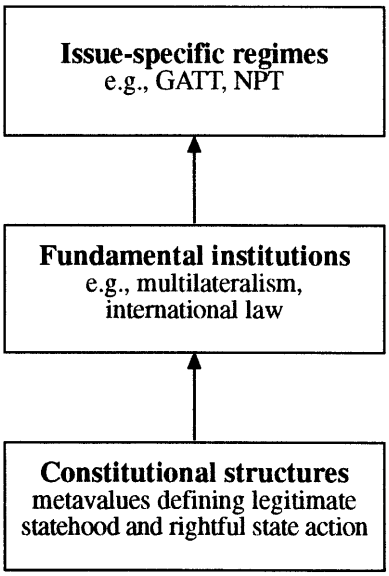

FIGURE 1. *The constitutive hierarchy of modern international institutions*

for the nature of fundamental institutions, this perspective is problematic in three respects.

Even if hegemonic powers do help to create and enforce the rules of international society, neorealists have difficulty explaining the institutional practices that dominant states have historically employed to achieve this goal. The logic of neorealist theory suggests that hegemons will prefer bilateral forms of interstate cooperation, which better enable them to exploit their relative power over other states, in order to maximize the flexibility and minimize the transparency of their actions, and to prevent weaker states from increasing their power through collective action. Yet this expectation is contradicted by the United States' enthusiastic promotion of multilateralism after 1945. As Steve Weber has shown in the case of NATO, and Judith Goldstein in the case of GATT, power alone cannot explain Washington's institutional preferences.[12]

If neorealists could establish a clear relationship between the distribution of power, the institutional preferences of hegemons, and the nature of fundamental institutions, they would still have trouble accounting for the generic nature of basic institutional practices. As I explain later, the principle of multilateralism was first endorsed by states during the nineteenth century, and the density and efficacy of multilateral institutions increased steadily thereafter. American hegemony certainly intensified and accelerated this process, but institutional developments after World War II built on normative principles laid down well before *Pax Americana*, notably at the two Hague

12. See Weber 1993, 267; and Goldstein 1993, 202.

Conferences and at Versailles. The development of multilateralism has thus exhibited an evolutionary dynamic and an enduring quality that even sophisticated neorealist arguments, which invoke ''institutional lags'' and ''punctuated equilibria'' to explain institutional persistence, have difficulty accommodating.[13]

Neorealist attempts to link the balance of power to institutional preferences and outcomes are further frustrated by the fact that ancient Greek and modern states engaged in different institutional practices under the same structural conditions. As neorealists have frequently observed, Athens was a hegemon operating in a bipolar system, yet unlike the United States it never promoted multilateral institutions to manage interstate relations.[14] For centuries the Greek city-states practiced third-party arbitration as the principal institutional mechanism for solving cooperation problems and facilitating coexistence, and it remained the key fundamental institution throughout, and long after, the period of Athenian hegemony.

Neoliberalism

In contrast to neorealists, neoliberals hold that international institutions exert a significant influence on international relations, enabling states, as rational actors, to solve cooperation problems and realize goals that autonomy and self-help cannot provide.[15] Without denying the anarchical nature of the international system, the self-interested nature of states, or the importance of power, they argue that institutions ''facilitate agreements by raising anticipated costs of violating others' property rights, by altering transaction costs through clustering of issues, and by providing reliable information to members.''[16] The nature of particular institutions, they contend, is determined by the configuration of state interests and the strategic dilemmas posed by cooperation in different issue areas.[17] While neoliberals concentrate on issue-specific institutions, or ''regimes,'' several scholars have recently used rationalist insights to explain the nature and development of fundamental institutions, with Lisa Martin's work on multilateralism being emblematic.[18]

Martin assumes ''that states are self-interested and turn to multilateralism only if it serves their purposes, whatever these might be.''[19] After identifying four types of cooperation problems encountered by states—collaboration, coordination, suasion, and assurance—she examines when it is rational for states to choose multilateral solutions to each problem. Her inquiry reveals, however, that ''at this abstract level of analysis the outcomes remain indeterminate. Multiple feasible solutions exist for each problem.''[20] In short, rational choice theory alone cannot predict when states will construct multilateral institutions to solve cooperation problems. To overcome

13. See Krasner 1976; and Krasner 1988.
14. See Fliess 1966; Gilpin 1988; and Gilpin 1991.
15. See Axelrod and Keohane 1985; Keohane 1984, 1989; and Stein 1983, 1990.
16. Axelrod and Keohane 1985, 97.
17. Stein 1983, 140.
18. Martin 1993. See also Morrow 1994; and Weingast 1995.
19. Martin 1993, 92.
20. Ibid.

this limitation, Martin invokes two structural features of the post-1945 international system—American hegemony and bipolarity—to explain why multilateral institutions proliferated. She argues that it is rational for far-sighted hegemons to promote multilateral forms of governance, and that ''one of the most important impacts of bipolarity is to encourage far sighted behavior on the hegemon's part.''[21] By combining the neoliberal emphasis on rational institutional selection with the neorealist stress on structural determinants, Martin claims to overcome the indeterminance of abstract rationalism and, in turn, explain post-1945 multilateralism.

This perspective on fundamental institutions is problematic in several respects. As Martin successfully demonstrates, abstract rationalist theory cannot explain why states adopt one institutional form over another. Appeals to structural determinants are no solution, because they expose neoliberals like Martin to the same criticisms as neorealists. To begin with, American policymakers advanced multilateral principles for structuring the post-1945 international order *before* the emergence of bipolarity. As John Ruggie observes, it is ''more than a little awkward to retroject as incentives for actor behavior structural conditions that had not yet clearly emerged, and were not yet fully understood, and that in some measure only the subsequent behavior of actors helped to produce.''[22] Second, modern international society has experienced only one period of hegemony under conditions of bipolarity, and although multilateralism received a major boost during that period, it significantly predates *Pax Americana*, in both principle and practice, as I later explain. Third, attempts to deduce institutional preferences and outcomes from structural conditions such as hegemony and bipolarity are confounded by the fact that under such conditions modern and ancient Greek states engaged in different practices.

Constructivism

Constructivists argue that social institutions exert a deep constitutive influence on the identities and, in turn, interests of actors. ''Cultural-institutional contexts,'' Peter Katzenstein writes, ''do not merely constrain actors by changing the incentives that shape behavior. They do not simply regulate behavior. They also help to constitute the very actors whose conduct they seek to regulate.''[23] International institutions, it follows, define the identities of sovereign states.[24] Understanding how international institutions shape state identity is crucial, constructivists hold, because social identities inform the interests that motivate state action. ''Actors do not have a 'portfolio' of interests that they carry around independent of social context; instead they define interests in the process of defining situations. . . . Sometimes situations are unprecedented in our experience. . . . More often they have routine qualities in which we assign meanings on the basis of institutionally defined roles.''[25] Employing these

21. Ibid., 112.
22. Ruggie 1993a, 29.
23. Katzenstein 1996, 22.
24. Wendt and Duvall 1989, 60.
25. Wendt 1992, 398.

insights, constructivists have sought to explain a wide range of international phenomena, including the practice of self-help, the international movement against apartheid, the end of the Cold War, and, importantly for our purposes, the nature of basic institutional practices.[26]

When they turn their attention to fundamental institutions, constructivists draw a constitutive link between the organizing principle of sovereignty, the identity of the state, and basic institutional practices. Sovereignty is considered the primary institution of international society.[27] The meanings that define sovereignty ''not only constitute a particular kind of state—the 'sovereign' state—but also a particular form of community, since identities are relational.''[28] Constructivists argue that sovereign states have ''certain practical dispositions'' that shape the fundamental institutions they construct to facilitate coexistence.[29] ''The classical game of sovereignty,'' Robert Jackson claims, ''exists to order the relations of states, prevent damaging collisions between them, and—when they occur—regulate the conflicts and restore peace.''[30] This game generates certain fundamental institutions. ''For example, traditional public international law belongs to the constitutive part of the game in that it is significantly concerned with moderating and civilizing the relations of independent governments.''[31] Likewise, diplomacy ''also belongs insofar as it aims at reconciling and harmonizing divergent national interests through international dialogue.''[32]

The relationship between the institution of sovereignty and basic institutional practices has been clarified somewhat by Ruggie's work on multilateralism. Ruggie emphasizes the inextricable connection between sovereignty and territoriality, arguing that the ''distinctive feature of the modern system of rule is that it has differentiated its subject collectivity into territorially defined, fixed, and mutually exclusive enclaves of legitimate dominion.''[33] The state's claim to exclusive jurisdiction within a given territory is essentially a claim to private property.[34] When the system of sovereign states first emerged, some ongoing means had to be found to stabilize territorial property rights, because conflicting jurisdictional claims promised perpetual conflict and instability. Ruggie argues that multilateralism—with its principles of indivisibility, generalized rules of conduct, and diffuse reciprocity—was the ''inevitable'' solution to this problem.[35] He thus draws a clear connection between the foundational principle of sovereignty, the social identity of the state, and the nature of fundamental

26. See ibid; Finnemore 1996; Katzenstein 1996; Klotz 1995a,b; Koslowski and Kratochwil 1995; and Ruggie 1993a.
27. See Ashley 1988; Bartelson 1995; Biersteker and Weber 1996; Jackson 1990; Onuf 1991; Ruggie 1983; Ruggie 1993b; Weber 1995; Wendt 1992; Wendt and Duvall 1989.
28. Wendt 1992, 412.
29. Wendt and Duvall 1989, 61.
30. Jackson 1990, 36.
31. Ibid.
32. Ibid., 35.
33. Ruggie 1993b, 151.
34. Ruggie 1983, 275.
35. Ruggie 1993a, 21.

institutions, concluding that multilateralism ''is a generic institutional form in the modern state system.''[36]

To explain the increased density of multilateral institutions after 1945, several constructivists have advanced a ''second image'' argument about the institutional impact of American hegemony.[37] They argue that the United States' identity as a liberal democracy directly influenced the policies Washington employed to structure the postwar international order. According to Anne-Marie Burley, American policymakers believed that the domestic reforms of the New Deal would only succeed if compatible regulatory institutions existed at the international level. Consequently, they set about constructing multilateral institutions that embodied the same architectural principles as those of the New Deal regulatory state.[38] The identity of the world's most powerful state is thus considered a crucial factor in the proliferation of multilateral institutions after 1945. In Ruggie's words, it was ''*American* hegemony that was decisive after World War II, not merely American *hegemony*.''[39]

These constructivist arguments suffer from two weaknesses. First, the connection Ruggie draws between territoriality, property rights, and multilateralism sits uncomfortably with the institutional histories of both the modern and ancient Greek systems. In the first 150 years after Westphalia—the so-called age of absolutism—the European state system developed relatively few genuine multilateral institutions. As I later explain, multilateralism ''took off'' during the nineteenth century, not the seventeenth. Ruggie's argument is further contradicted by the previously stated fact that the city-states of ancient Greece practiced arbitration, not multilateralism, to stabilize territorial property rights. Second, although Burley provides a compelling explanation for why American policymakers were ''ideologically'' inclined toward multilateral forms of international governance, and why the United States played such a catalytic role in their post-1945 proliferation, her argument implies that the architectural principles advanced by the United States were new to the community of states. American policymakers, however, elaborated institutional principles that were first embraced and implemented by the great powers almost a century earlier.

Toward a New Constructivist Theory

Constructivists correctly focus on how primary social institutions shape state identity, in turn influencing basic institutional practices. They have paid insufficient attention, however, to the discursive mechanisms that link intersubjective ideas of legiti-

36. Ibid., 24.

37. Burley 1993. Burley's argument is echoed in Ruggie 1993a, and further developed in Ruggie 1996. Not all constructivists follow Burley and Ruggie in integrating domestic sources of state identity into their explanatory frameworks. Most notably, in his commitment to systemic theorizing, Wendt explicitly brackets domestic, or ''corporate,'' sources of state identity, focusing entirely on the constitutive role of international social interaction; Wendt 1994, 385.

38. Burley 1993, 125.

39. Ruggie 1993a, 31.

mate statehood and rightful state action to the constitution of fundamental institutions. Drawing on the insights of communicative action theory, particularly the work of Jürgen Habermas, and reflecting on the discursive practices surrounding institutional production and reproduction in the ancient Greek and modern societies of states, the following section outlines an alternative constructivist account of fundamental institutions.

Communicative Action and Institutional Construction

When states formulate, maintain, and redefine the institutional norms, rules, and principles that facilitate international cooperation they engage in a process of communicative action. That is, they debate how legitimate states should, or should not, act. Theorists of communicative action offer three insights relevant to understanding the practical discourse that surrounds international institutional construction. These insights, Habermas insists, are ''not concerned with what rational, reasonable, or correct argumentation is, but with how people, dumb as they are, actually argue.''[40] First, ''a communicatively achieved agreement must be based *in the end* on reasons.''[41] Parties have to justify the particular principles they advocate, debate revolves around the merits of particular reasons, and stable agreements, resulting in legitimate rules of conduct, ultimately rest on those reasons deemed to carry the most weight. Second, not all reasons have equal standing; only those that resonate with preexisting, mutually recognized higher order values are considered valid. ''In the context of communicative action,'' Habermas argues, ''only those persons count as responsible who, as members of a communicative community, can orient their actions to intersubjectively recognized validity claims.''[42] Third, the reasons that carry the greatest weight in practical discourse are those that appeal to deep-rooted, collectively shared ideas that define what constitutes a legitimate social agent.[43] *Identity values* represent the core of the ''lifeworld,'' the ''storehouse of unquestioned cultural givens from which those participating in communication draw agreed-upon patterns of interpretation for use in their interpretive efforts.''[44] These insights undergird the discussion that follows, informing my argument about the social identity of the state, the deep metavalues that structure international societies, and the mechanisms by which these constitute basic institutional practices.

State Identity, Sovereignty, and Political Action

All human actors—both individual and collective—have social identities that enable them to operate in a world of complex social processes and practices. Following other constructivists, I define social identities as ''sets of meanings that an actor attributes to itself while taking into account the perspective of others, that is, as a

40. Habermas 1984, 27.
41. Ibid., 17.
42. Ibid., 14.
43. Connolly 1993, 190–91.
44. Habermas 1991, 136.

social object.''[45] Social identities are defined by intersubjective, socially sanctioned, and institutionalized meanings that define the nature and purpose of agents and agency in a given social context. Such identities fulfill a variety of social-psychological purposes. Most importantly, they provide actors with primary reasons for action. In a *purposive* sense, as George T. McCall and J. L. Simmons argue, social identities provide ''the primary source of plans for action,'' informing an actor's goals as well as the strategies they formulate to achieve them.[46] In a *justificatory* sense, social identities provide the basis on which action can be rationalized, providing actors with a reason for being and acting, a raison d'être. For instance, a doctor's social identity implies certain forms of action, such as prescribing drugs and doing surgery, but also gives meaning to those actions: ''I am a doctor, that's why I do such things.''

As we have seen, constructivists assume that the foundational principle of sovereignty defines the social identity of the state. In David Strang's words, sovereignty is understood ''as a social status that enables states as participants within a community of mutual recognition.''[47] This assumption is both logically and historically problematic. Unless embedded within a larger complex of values, the principle of sovereignty cannot alone provide the state with a coherent social identity, nor has it done so historically. Sovereignty, like individual liberty, is not a self-referential value capable of independently providing actors with substantive reasons for action. To begin with, sovereignty has no purposive content. Without reference to some higher order values it cannot independently inform plans of action or the strategies to achieve them. Furthermore, it provides an inadequate justificatory basis for action. If I behave in a way that annoys, frustrates, or merely affects those around me, they are entitled to ask why I acted in such a fashion. Asserting my independence or liberty cannot provide an adequate response, as they can immediately ask why I am entitled to such freedoms. At this point I must ground my claims to independence in some higher order, socially recognized values. Taken to an extreme, this would involve appealing to intersubjective values that define what it means to be a fully realized human being. Similarly, when states are forced internationally to justify their actions there comes a point when they must reach beyond mere assertions of sovereignty to more primary and substantive values that warrant their status as centralized, autonomous political organizations. This is a necessary feature of international communicative action, and historically it has entailed a common moral discourse that grounds sovereign rights in deeper values that define the social identity of the state: ''We are entitled to possess and exercise sovereign rights because we are ancient polises, absolutist monarchies, or modern democracies.''

Recognizing that the identity of the state is grounded in a larger complex of values than simply the organizing principle of sovereignty is the first step in formulating a more satisfactory constructivist account of basic institutional practices. For these values not only define the terms of legitimate statehood, they also provide states with

45. Wendt 1994, 385.
46. McCall and Simmons 1966, 69.
47. Strang 1996, 22.

substantive reasons for action, which in turn exert a profound influence on institutional design and action. Furthermore, the values that ground sovereignty have varied from one society of states to another, generating contrasting rationales for state action and different basic institutional practices.

Constitutional Structures

To facilitate systematic comparison across historical societies of states, I conceptualize the complexes of values that define state identity as constitutional structures. *Constitutional structures are coherent ensembles of intersubjective beliefs, principles, and norms that perform two functions in ordering international societies: they define what constitutes a legitimate actor, entitled to all the rights and privileges of statehood; and they define the basic parameters of rightful state action.* They are ''constitutional'' because they are systems of basic principles that define and shape international polities, and they are ''structures'' because they ''limit and mold agents and agencies and point them in ways that tend toward a common quality of outcomes even though the efforts and aims of agents and agencies vary.''[48] As Figure 2 illustrates, constitutional structures can be said to incorporate three intersubjective normative elements: a hegemonic belief about the moral purpose of centralized, autonomous political organization; an organizing principle of sovereignty; and a norm of pure procedural justice.

Hegemonic beliefs about *the moral purpose of the state* represent the core of this normative complex, providing the justificatory foundations for the principle of sovereignty and the prevailing norm of pure procedural justice. The term *purpose* refers here to the reasons that historical agents hold for constructing and maintaining autonomous political units. Such purposes are ''moral'' because they always entail a conception of the individual or social ''good'' served by autonomous political organizations. We refer to the moral purpose of the ''state'' because such rationales are of a different category to the moral purposes of suzerain or heteronomous forms of political organization. Finally, these beliefs are hegemonic, not because they are the only conceptions of the moral purpose of the state propagated in a given cultural and historical context, but because, in a narrow sense, they are embraced by the dominant coalition of states and, in a broader sense, they constitute the prevailing, socially sanctioned justification for sovereign rights. Against these hegemonic beliefs, alternative conceptions of the moral purpose of the state have historically assumed an oppositional quality, their proponents often decrying the way in which prevailing beliefs condition admission to international society and shape its basic institutional practices.[49]

48. Waltz 1979, 74.

49. Note how the revolutionary states of France and the United States challenged the dynastic principles of absolutist international society in the eighteenth century; how the major Asian states challenged, then accepted, the liberal-constitutionalist ''standard of civilization'' that structured early modern international society in the late nineteenth century; how the Soviet Union and South Africa bucked against the same during the Cold War, subsequently embracing the very principles they opposed for decades to gain effective entry to contemporary international society. See Gilbert 1951; Gong 1984; Klotz 1995; and Koslowski and Kratochwil 1995.

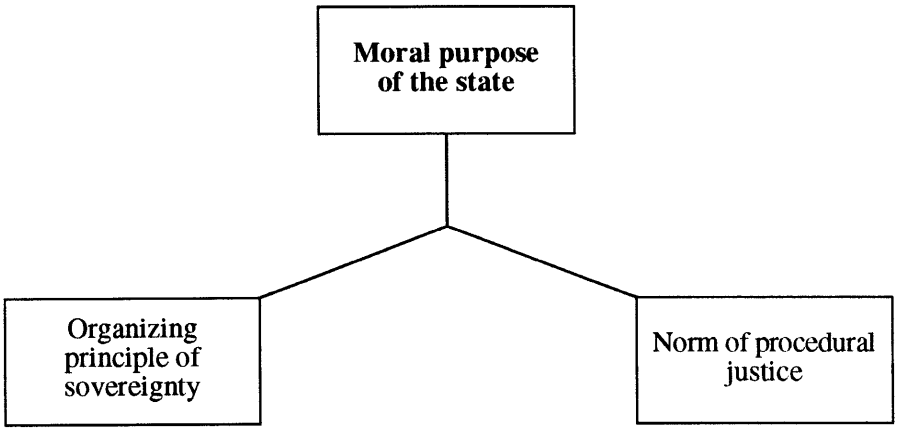

FIGURE 2. *The constitutive structure of international society*

Societies of sovereign states, suzerain systems, and heteronomous systems are all structured by organizing principles. These principles, Ruggie argues, establish the basis on ''which the constituent units are separated from one another.''[50] That is, they define the mode of differentiation. In societies of states, *the organizing principle of sovereignty* differentiates political units on the basis of particularity and exclusivity, creating a system of territorially demarcated, autonomous centers of political authority. Constructivists argue that the precise meaning and behavioral implications of this principle vary from one historical context to another. As Janice Thompson observes, ''while sovereignty differs from heteronomy in theoretical and empirical ways, there can be much variation in the authority claims within sovereignty.''[51] The actors deemed worthy of sovereign rights, the nature of the rights they gain and the obligations they assume, the conditions under which those rights can be legitimately exercised, and the situations in which international society is licensed to intervene to compromise or remove those rights have varied greatly, particularly across societies of states. Hegemonic beliefs about the moral purpose of the state provide the justificatory basis for sovereign rights, and in doing so define the meaning of sovereignty in a given historical context, as well as its behavioral implications.

Constitutional structures also incorporate a third element: a *norm of pure procedural justice.* Norms of pure procedural justice specify the correct procedures that ''legitimate'' or ''good'' states employ collectively to formulate basic rules of interstate conduct. These norms do not prescribe substantive principles of international justice, they simply dictate ''a correct or fair procedure such that the outcome is likewise correct or fair, whatever it is, providing the procedure has been properly followed.''[52] The existence of a generally accepted norm of pure procedural justice is

50. Ruggie 1983, 274.
51. Thomson 1994, 151.
52. Rawls 1972, 86.

a prerequisite for ordered social relations, domestically and internationally. Unless a minimal, base-line agreement exists among society's members about how rules of coexistence and cooperation should be formulated, no basis exists for collective action or the resolution of conflict, let alone the formulation of substantive principles of justice. This is true of international societies as well as domestic societies, but as following sections demonstrate, different conceptions of the moral purpose of the state have generated different systemic norms of pure procedural justice. As we shall see, the raison d'être undergirding the sovereignty of ancient Greek city-states involved a ''discursive'' norm of justice, whereas the moral purpose sustaining the sovereignty of modern states has involved a ''legislative'' conception of justice.

Before proceeding, three observations remain. First, these normative elements are mutually interconnected and dependent, constituting a single, coherent normative system. One cannot argue in defense of the principle of sovereignty without appealing to the ''good'' served by a system of rule based on territorially demarcated centers of political authority, and since, in John Rawls' words, ''justice is the first virtue of social institutions,'' it is difficult to define that good without reference to some conception of procedural justice.[53] Second, the values that constitutional structures comprise originate within the domestic political cultures of dominant states, and coalitions of such states generally exert a disproportionate influence on their international institutionalization. Once embedded in the practices of states, however, the values that make up constitutional structures condition the behavior of strong and weak states alike, facilitating both domination and resistance. Third, constitutional structures are hegemonic, not totalizing. The normative principles they embody define the membership of international society and the bounds of legitimate state action, but this does not mean that they go uncontested. It is not uncommon for state and nonstate actors to oppose the dominant interpretation of what constitutes a legitimate state or appropriate state behavior. In fact, this represents one of the more interesting axes of tension in contemporary world politics.

Constitutional Structures and Institutional Design and Action

Historically, societies of sovereign states have evolved different constitutional structures, and this has led them to develop distinctive fundamental institutions. As dominant conceptions of the moral purpose of the state have varied, so too have systemic norms of procedural justice. Animated by different norms, states have adopted different institutional practices. The ancient Greek institution of arbitration served essentially the same function as the modern institution of multilateralism, with both being employed to solve collaboration as well as coordination problems between states. This is not to say that the city-states of ancient Greece were concerned with the same substantive issues as modern states, only that they faced the same spectrum of cooperation problems, and that their institutions were designed to address these problems. The crucial difference between the two societies of states lay in their contrasting

53. Ibid., 3.

norms of procedural justice, norms that encouraged states to choose different institutional solutions. It matters little whether, in an abstract rational sense, arbitration or multilateralism constitute a more *efficient* response to coordination and collaboration problems; what matters is that at particular historical moments states have deemed them the *right* responses.

Systemic norms of pure procedural justice influence institutional design and action through three constitutive mechanisms. First, they define the cognitive horizons of institutional architects. That is, they shape the institutional imaginations of those political actors engaged in producing and reproducing fundamental institutions, making some practices appear mandatory and others unimaginable. Animated by a discursive conception of procedural justice, the city-states of ancient Greece imagined and constructed the institution of interstate arbitration—not multilateralism—and imbued with a legislative conception of procedural justice, modern institutional architects conceived and established contractual-legal and multilateral forms of international governance. In both cases, institutional practices were produced and reproduced partly because, in Paul DiMaggio and Walter Powell's words, ''individuals often cannot even conceive of appropriate alternatives (or because they regard as unrealistic the alternatives they can imagine).''[54]

Second, norms of pure procedural justice are the metanorms that structure the process of communicative action that surrounds the production and reproduction of fundamental institutions. Fundamental institutions are sets of prescriptive norms, rules, and principles that specify how states ''ought'' to resolve their conflicts, coordinate their relations, and facilitate coexistence. The construction and maintenance of such institutions necessarily entails an ongoing moral dialogue between states about what these norms, rules, and principles should be. As theorists of communicative action observe, such dialogues are structured by a ''higher order consensus'' about the primary social values that such institutions are intended to embody.[55] Systemic norms of pure procedural justice represent the salient ''higher order values'' in the moral dialogues that produce and reproduce the fundamental institutions of international societies. The architects of modern international institutions appealed to the procedural norm of legislative justice when justifying multilateral institutional solutions, and the norm of discursive justice provided the justificatory foundation for the ancient Greek practice of arbitration.

These two constitutive mechanisms shape basic institutional practices because an ideological consensus exists among the majority of states about the primacy of the prevailing systemic norm of pure procedural justice. Once such a consensus exists, however, norms of procedural justice also constrain the institutional actions of those states that do not have a deep cognitive or moral attachment to them. When such states wish to portray their interactions with other states as legitimate, they are under significant compulsion to justify their actions in terms of the system's primary norms of coexistence. It is a general feature of human social action, Quentin Skinner ob-

54. DiMaggio and Powell 1991, 11.
55. Heller 1987, 239.

serves, that ''such an agent may be said to have a strong motive for seeking to ensure that his behavior can plausibly be described in terms of a vocabulary already normative within his society, a vocabulary which is capable of legitimating at the same time as describing what he has done.''[56] Contrary to common assumptions, this legitimating imperative forces states to adjust more than their language. Claiming that one's relations with other states are consistent with prevailing norms of procedural justice is a successful legitimating strategy only if there is a minimal coincidence between rhetoric and actions, at least in the longer term. ''Thus the problem facing an agent who wishes to legitimate what he is doing at the same time as gaining what he wants,'' Skinner argues, ''cannot simply be the instrumental problem of tailoring his normative language in order to fit his projects. It must in part be the problem of tailoring his projects in order to fit the available normative language.''[57] This is not to say, of course, that all states closely observe their system's norms of pure procedural justice all the time. Rather, it is to suggest that such norms exert a constraining influence on the *institutional* actions of even those states that do not subscribe to the ideological consensus of their system.

By these three mechanisms, systemic norms of pure procedural justice shape the fundamental institutions that states create to solve cooperation problems and facilitate coexistence. These mechanisms are hierarchically ordered, with the first exerting deeper constitutive and constraining influence than the second, and the second deeper than the third. Systemic norms of procedural justice shape the behavior of states through all three mechanisms simultaneously, although the precise balance between these mechanisms varies from one setting to another. The net result is that the contrasting behavioral precepts of the modern and ancient Greek norms of pure procedural justice have been closely reflected in the architectural principles embodied in their respective fundamental institutions.

Comparing the Ancient Greek and Modern Societies of States

The ancient Greek and modern societies of states exhibit a basic similarity: both have been organized according to the principle of sovereignty. That is, not only have their constituent units claimed supreme authority within certain territorial limits, these claims have been recognized as legitimate by their respective communities of states. As Martin Wight observes, in modern international society ''this has been formulated in the doctrine of the legal equality of states. The ancient Greek *poleis* and the Hellenic Kingdoms, in a similar way, both claimed sovereignty and recognized one another's.'' [58] In both contexts, therefore, the sovereignty of the state has been institutionally grounded. Yet despite this likeness, the ancient Greek and modern societies

56. Skinner 1978, xii.
57. Ibid., xii–xiii.
58. Wight 1977, 23.

of states have produced very different fundamental institutions to facilitate coexistence between sovereign states. I explain this institutional variation through reference to the contrasting constitutional structures that defined legitimate statehood and rightful state action in these two systems.

In brief, the argument proceeds as follows. At the hearts of the ancient Greek and modern constitutional structures lie radically different conceptions of the moral purpose of the state. For the ancient Greeks, city-states existed for the primary purpose of cultivating a particular form of communal life—what Aristotle calls *bios politikos*, the political life. The polis was the site in which citizens, freed from material labors, could participate—through action and speech, not force and violence—in the decisions affecting their common life. Through such participation, citizens escaped what Hannah Arendt calls ''the futility of individual life.''[59] The moral purpose of the modern state, in contrast, involves no such idealized conception of communal life. Instead, its raison d'être is individualist, resting on the augmentation of individuals' purposes and potentialities, especially in the economic realm. Since the late eighteenth century, the sovereign state's legitimacy has been increasingly tied to the cultivation of an environment in which individuals can freely pursue their ''interests,'' a freedom protected by state-sanctioned ''rights.''

Informed by these contrasting moral purposes of the state, the ancient Greek and modern constitutional structures embody different norms of procedural justice. The ancient Greek norm of procedural justice prescribed a discursive mode of rule determination. The political life of the Greek city-state revolved around public speech and debate, the principal aim of which was the rational pursuit of justice. Cooperation problems between individuals were resolved through a process of public political discourse, which centered on the adjudication of particular disputes before large public assemblies and jury courts, and the rulings of these bodies applied only to the disputing parties in a particular realm of their interaction. In this procedure, codified law played little role in the decisions of adjudicating bodies, nor was their purpose to inscribe generalizable rules of conduct. Instead, assemblies and courts exercised an Aristotelian ''sense of justice,'' involving the highly subjective evaluation of the moral standing of the disputants, the circumstances of the case at hand, considerations of equity, and the needs of the polis. General rules of social conduct arose out of this process only indirectly, with discursive practices gradually generating customary norms of behavior.

In contrast, the modern norm of procedural justice licenses a legislative mode of rule determination. Once the legitimacy of the state had been tied to the augmentation of individuals' purposes and potentialities, the absolutist principle that rule formulation was the sole preserve of the monarch lost all credence. After the American and French Revolutions, rightful law was deemed to have two characteristics: it had to be authored by those subject to the law, or their representatives; and it had to be equally binding on all citizens, in all like cases. The previous authoritative mode of rule determination was thus supplanted by the legislative codification of formal,

59. Arendt 1958, 56.

reciprocally binding accords. Courts exist in such a system to interpret codified law and to determine whether, in a particular case, that law has been broken.

The modern legislative norm of procedural justice has informed the paired evolution of the two principal fundamental institutions of contemporary international society: contractual international law, and multilateralism. As explained later, the translation of the modern conception of law as reciprocal accord into the international arena after the late eighteenth century spurred not only the broadening and deepening of international law as an institution firmly grounded in the practices of states, but the development of multilateralism. For multilateralism, Ruggie observes, is an institution that ''coordinates behavior among three or more states on the basis of generalized principles of conduct: that is, principles which specify appropriate conduct for a class of actions, without regard to the particularistic interests of the parties or the strategic exigencies that may exist in any specific occurrence.''[60]

The ancient Greek practice of interstate arbitration embodied the same discursive norm of procedural justice that informed the city-states' domestic legal processes. As we shall see, disputes between states were adjudicated in public fora, before arbitrators charged with exercising a sense of justice and equity, as well as an awareness of the particularity of each case. This system involved neither the formal codification of general, reciprocally binding laws, nor the interpretation of such laws. Norms of interstate conduct certainly evolved, but they were accretions, customs born of case-specific discourse, not collective legislation.

The Ancient Greek Society of States

The Ancient Greek Constitutional Structure

Aristotle's ethical and political writings provide a useful starting point for a discussion of ancient Greek views about the moral purpose of the state. Aristotle holds that ideal human agents—who he insists are always male—combine reason with action.[61] The political implications of this become clear only if we recognize that for the ancient Greeks the greatest expression of reason was the ''perception of good and evil, just and unjust.''[62] The rational pursuit of justice through action was deemed possible only within a particular sort of political community—the polis. To begin with, justice was considered an inherently social virtue, because one cannot act justly without treating the needs and interests of others equally and fairly. Furthermore, the pursuit of justice was inextricably linked to speech, the articulation of moral claims within a wider public political discourse.[63] The quest for justice was thus thought to be an inherently political activity, and men inherently political beings. The polis was in turn considered the preeminent form of human organization, because, Aristotle claims, ''in the state, the good aimed at is justice; and that means what is for the

60. Ruggie 1993a, 14.
61. Aristotle 1962, 17.
62. Aristotle 1981, 60.
63. Ibid.

benefit of the whole community.''[64] The moral purpose of the ancient Greek state thus lay in the cultivation of *bios politikos,* a form of communal life characterized by the rational pursuit of justice through action and speech.

This moral purpose entailed a discursive norm of pure procedural justice, one that licensed case-by-case determination of right and wrong conduct through a process of public moral debate and deliberation.[65] This is not to say that the ancient Greeks never promulgated codified laws; the history of the city-states is punctuated by great moments of constitutional law making. These laws, however, were largely, though not exclusively, procedural. Dennis Maio has shown, for instance, that Athenian law of the fourth century B.C.E. ''was not so much a system of commands for extrajudicial activity as it was a system of regulations for the conduct of judicial process,''[66] which is significant since this is precisely the time when Athenians are said to have embraced ''the rule of law.''[67] Within this procedural framework, ancient Greek jury courts and assemblies—frequently consisting of hundreds of jurors—exercised considerable deliberative discretion, adjudicating disputes without strict reference to codified substantive laws. Instead of objectively applying the letter of the law, jurors were expected to exercise a ''sense of justice,'' subjectively weighing the moral rectitude of the disputants, the peculiarities of the case, the needs of the community, and principles of equity. As Sally Humphreys observes, they were ''invited to behave as if they were members of the local community, deciding on the fairest solution for each particular case, rather than specialists in applying law to cases.''[68] Speech writers strove not to interpret the law, but to establish the righteousness of defendants' positions,[69] and witnesses were called not to determine the facts of a case, but to testify to defendants' respectability.[70] In such a system, general rules of social conduct were less the product of legislation than custom, with iterated discursive practices gradually generating norms of social behavior.

The discursive norm of pure procedural justice reached its institutional apogee in classical Athens, but the belief that public moral discourse was the appropriate way for civilized polities to decide questions of right and wrong shaped political and legal practices across the city-states. By the time of Plato and Aristotle, democracy was the most common form of political organization, with Athenian principles and practices influencing the constitutions, if not all the institutions, of many city-states.[71] More interestingly, though, the discursive conception of justice also structured the practices of oligarchic states, even Sparta. The Great Rhetra—the raft of laws supposedly bequeathed to the Spartans by Lycurgus, the legendary lawgiver—was largely procedural, and beyond this there is little evidence that the Spartans ever developed an

64. Ibid., 207.
65. See Humphreys 1983; Humphreys 1985; Humphreys 1988; Maio 1983; Garner 1987; Ober 1989; and Osborne 1985.
66. Maio 1983, 40.
67. Ostwald 1986; and Sealey 1987.
68. Humphreys 1983, 248.
69. Ibid.
70. Humphreys 1985, 313.
71. Hansen 1992, 16.

extensive body of codified substantive law. Furthermore, although it was once believed that decision-making power was concentrated in the hands of the five Ephors and the Gerousia, or Council of Elders, it appears that the public assembly, open to all adult male Spartans, "had the ultimate decision on matters of legislation and policy."[72] The importance of public discourse, and the power of the assembly, are clearly apparent in Thucydides' account of the famous Debate at Sparta, where the congregated Spartans heard and debated the moral claims of their disgruntled allies and the defensive Athenians, ultimately deciding to launch the Peloponnesian War.[73]

Interstate Arbitration

The city-states practiced interstate arbitration for well over five hundred years, with documented cases stretching from the sixth to the first centuries B.C.E..[74] Literary and historical materials, in addition to extant inscriptions, record the details of some eighty cases, the majority of which occurred after the rise of the new civic ideology in the fifth century.[75] The institution brought together two, occasionally three, parties and an arbitrator, the latter charged with adjudicating the case and determining reparations, where appropriate. Two examples testify to both the historical longevity of the practice and the range of issues it encompassed. Herodotus describes an early fifth century B.C.E. dispute between Athens and Mytilene over the colony of Sigeum, which the former had seized from the latter and recolonized. He writes that the "war between Mytilene and Athens was brought to an end by Periander, who was invited by both parties to act as arbitrator; the condition that he proposed was that each side should retain what it at the moment possessed. In this way Sigeum passed into the power of Athens."[76] The second case, dated around 220 B.C.E., involved the regulation of a variety of relations between Cnossos and Tylissus. The decision by Argos established rules governing property, calendars, sacrifices, and even "breaches of hospitality."[77] The practice of arbitration thus bridged the traumas of the Peloponnesian War, providing a mechanism for the successful settlement of a wide spectrum of issues between strong and weak states alike.

The institution of arbitration was structured by the same discursive norm of pure procedural justice that informed legal practices within the city-states. Arbitrators ruled without reference to a body of codified interstate law, the absence of which has long been noted.[78] The city-states certainly concluded a large number of treaties, but these seldom enshrined general principles of international conduct.[79] The system of

72. Sealey 1976, 71. See also Andrews 1966.
73. Thucydides 1972, 72–87.
74. The most important works on ancient Greek arbitration are Phillipson 1911; Raeder 1912; Ralston 1929; Niebuhr Tod 1913; and Westermann 1907.
75. For a list of cases, see Niebuhr Tod 1913, 1–52.
76. Herodotus 1972, 378.
77. Niebuhr Tod 1913, 33–34.
78. See Adcock and Mosley 1975, 182; and Bauslaugh 1989, 36.
79. Adcock and Mosley 1975, 203.

arbitration thus rested on the arbitrator's ability to arrive at a fair and equitable decision through the deliberative assessment of competing moral claims. This was reflected in the oath that judges were required to recite before commencing deliberations. In a characteristic case between Calymma and Cos, the arbitrator swore ''by Jupiter, by Lucian Apollo, and by the earth that I will judge the case joined between the parties under oath as will appear to me most just.''[80] Not surprisingly, a reputation for moral excellence was the primary criterion in the selection of individuals, tribunals, or city-states as arbitrators.[81] As in domestic courts, arbitrators were not solely, or even primarily, concerned with the ''facts'' of the case, admitting a broad range of testimony, from the moral rectitude of the parties to considerations of equity. A ''skillful pleader,'' Niebuhr Tod observes, ''might influence a popular court by appeals which would be regarded at the present day as wholly irrelevant.''[82]

Ancient Greek arbitration is best characterized, therefore, as authoritative trilateralism. It was authoritative because the power of decision lay solely with the arbitrator; it was trilateral because the arbitrator ruled within a dynamic normative environment, actively molded by the competing moral claims of the disputing parties. While it is difficult to generalize from the available evidence, and a systematic evaluation is beyond the scope and purpose of this article, it seems that this form of extraterritorial governance was remarkably successful. First, interstate arbitration attained ''normative universality,'' to borrow a term coined by Jack Donnelly.[83] This is not to say that it was used by all states to solve all their cooperation problems all of the time, as the onset of the Peloponnesian War testifies. It seems, however, that city-states felt a powerful compulsion to prove the legitimacy of their claims by submitting them to arbitration, and strong and weak states frequently employed the practice in preference to other forms of settlement, including war. Second, the ancient Greeks placed no apparent limit on the types of problems they were willing to submit to arbitration.[84] What is more, a great number of recorded cases involved the settlement of territorial disputes. Third, the city-states not only felt obliged to submit their disputes to arbitration, they almost always abided by arbitral decisions.[85] The overwhelming majority of cases were settled by initial arbitration, and those that defied such resolution were almost always returned for a second round, not settled on the battlefield.[86] Finally, the practice of arbitration did not simply reflect the distribution and exercise of power between city-states. Even in the ''era of hegemonic leagues'' (479–379 B.C.E.), when a large number of the recorded cases involved conflicts between members of the same league, arbitration was not reduced to instrument of imperial power. Hegemons were seldom arbitrators; beyond contributing to the internal stability of

80. Raeder 1912, 264.
81. The most powerful states, including Sparta and Athens, were seldom called on to arbitrate; see Niebuhr Tod 1913, 96.
82. Ibid., 132.
83. Donnelly 1989, 1.
84. Westermann 1907, 199
85. Ibid., 208–209.
86. Niebuhr Tod 1913, 186.

leagues, little evidence suggests that decisions consistently favored their interests; and arbitration was still practiced across leagues.[87]

Thucydides' *History of the Peloponnesian War* testifies to the normative universality of the discursive norm of pure procedural justice and the practice of arbitration in the ancient Greek society of states. Arbitration clearly failed to prevent the onset of the war in 431 B.C.E., but throughout the *History* the practice appears as an important leitmotif, with states measuring the righteousness of their positions, and the moral bankruptcy of their opponents', according to their willingness, or reluctance, to engage in arbitration. Nowhere is this more apparent than in the Athenians' frequent attempts to defend the morality of their stand. In concluding the city's defense in the crucial Debate at Sparta, they declare their willingness to settle outstanding disputes through arbitration, aligning themselves with the normative principles of the society of states.[88] Acknowledging the veracity of Athenian appeals, the Spartan king, Archidamus, responds that it is ''the right thing to do since the Athenians themselves are prepared to submit to arbitration, and when one party offers this it is quite illegal to attack him first, as though he was definitely in the wrong.''[89] Sadly, Sthenelaidis successfully sways the assembly, claiming that the Athenians deserve to be punished twofold, for ''though they were once good, they have now turned bad.'' [90] Sometime later, on the eve of the war, Pericles seeks to bolster Athenian unity and justify the city's stand. Again, the city's willingness to submit its claims to arbitration is used to assert its righteousness. Pericles declares that the ''Spartans have never once asked for arbitration, nor have they accepted our offers to submit to it. . . . When one's equals, before resorting to arbitration, make claims on their neighbors and put those claims in the form of commands, it would be slavish to give in to them, however big or however small such claims may be.''[91] Further references to arbitration as the way civilized states settle their disputes dot the remainder of Thucydides' *History*, and it is not surprising that the practice was reinstituted after the war, persisting long after the city-states yielded their independence to Phillip of Macedon and later the Roman Senate.[92]

Modern International Society

The Modern Constitutional Structure

During the eighteenth century, a profound ideological revolution eroded the normative foundations of the absolutist society of states.[93] Scientific, economic, and politi-

87. Phillipson 1911, 90.
88. Thucydides 1972, 82.
89. Ibid.
90. Ibid., 86.
91. Ibid., 119.
92. Ralston 1929, 167–68.
93. The ideas that constituted the moral purpose of the absolutist state are discussed in Bodin 1967; Collins 1989; and Kantorowicz 1957. On the institutional practices of the absolutist society of states see De Callières 1983; and Hamilton and Langhorne 1995.

cal theorists all abandoned traditional holistic ways of conceiving the natural and social order, calling for the dissolution of natural and social entities into their primary components. The key to scientific knowledge, argued philosophers of science such as David Hume, was the identification of the natural world's primary components and the empirical observation of their ''constant conjunction'' by studying relations of ''cause and effect.''[94] Adam Smith and others engaged in a two-step process of disaggregation, reducing society to atomistic individuals and dividing production according to a systematic division of labor. Humans were portrayed as restless, acquisitive, and competitive, pursuing social positions commensurate with their ambitions and capacities, and forming social relationships for the sake of efficiency and productivity.[95] These same assumptions transformed ideas about political community, with political theorists, such as Rousseau, defining the polity as a notionally equal, contractually based collectivity of free individuals, a move begun by John Locke a century earlier.

Reinforced by the simultaneous transformation of economic and social life wrought by the industrial revolution, this ideological revolution profoundly altered the nature and terms of intraterritorial governance, generating distinctively modern standards of legitimate statehood and rightful state action. After the American and French Revolutions, it became increasingly difficult to legitimize state power and authority effectively in terms of preserving a rigidly hierarchical, dynastic social order. As the nineteenth century progressed, the state's moral purpose was increasingly identified with augmenting individuals' purposes and potentialities. This, in turn, generated a new legislative norm of procedural justice. The authoritative mode of rule determination that prevailed under absolutism was supplanted by the legislative codification of formal, reciprocally binding social rules. This new mode of determining rules specified, first, that only those subject to the law have the right to legislate—because reciprocally binding agreements between society's members ''remain the basis of all legitimate authority among men''—and, second, that the rules of society must apply equally to all citizens, in all like cases.[96] Both of these characteristics were enshrined in the French Declaration of the Rights of Man and Citizen, which declares that ''law is the expression of the general will; all citizens have the right to concur personally, or through their representatives, in its formation; it must be the same for all, whether it protects or punishes.''[97]

These institutional principles took root slowly, gradually transforming national systems of rule through the nineteenth century and into the twentieth. In some cases this process was relatively peaceful, as in Britain where the major reform bills of 1832, 1867, and 1884 progressively expanded the electorate from one-fifth to two-thirds of the adult male population.[98] Elsewhere it took a more violent turn. Holsti calculates that the ''principles of liberalism and nationalism were the major causes of

94. Hume 1978, 1–90.
95. Smith 1976, 8,477.
96. Rousseau 1988, 88.
97. Laqueur and Rubin 1979, 119.
98. Cook and Stevenson 1983, 62.

both civil and international wars between 1815 and 1914.''[99] By the second half of the nineteenth century, the state's new raison d'être and associated legislative norm of procedural justice had become the principle measure of political legitimacy and rightful state action. This is not to say that institutional practices changed as quickly as rhetoric, but the progressive move toward constitutional and representative forms of governance remains one of the more remarkable features of the late nineteenth century. One by one, the European states embraced constitutionalism and the rule of law, with even Russia adopting reforms in 1905. As David Thomson observes, ''in almost the whole of western and central Europe, parliamentary institutions developed between 1871 and 1914,'' and during the same period we see the gradual movement toward universal suffrage.[100]

The legislative norm of procedural justice filtered into international legal and political thought in the late eighteenth century, finding expression in the writings of early ''positivist'' legal theorists,[101] and in calls by political theorists and revolutionary states for a new diplomatic order.[102] It was not until the middle of the nineteenth century, however, that the new principle of rule determination began structuring the actual practices of states, establishing a new international institutional architecture. The principle that social rules should be authored by those subject to them came to license multilateral forms of rule determination, while the precept that rules should be equally applicable to all subjects, in all like cases, warranted the formal codification of contractual international law, to ensure the universality and reciprocity of international regulations. The net result was the proliferation of multilateral treaties, institutions, and organizations, leading Christopher Hill to characterize developments after the Congress of Vienna as ''the most striking line of evolution in diplomacy.''[103]

To illuminate how the values of the new constitutional structure shaped the fundamental institutions of modern international society, I trace two key institutional developments of the late nineteenth and early twentieth centuries. The first development is the growing commitment during this period to regular, then permanent, universal conferences of states. Once it was accepted that the rules governing international society should be authored by those subject to them and equally binding on all, some means had to be found to enable the collective legislation of international law. From 1850 onward, peacetime conferences of states emerged to fulfill this role. The second development is the creation of the Permanent Court of Arbitration, which later became the International Court of Justice. Initiated at the First Hague Conference of

99. Holsti 1991, 145.

100. Thomson 1962, 323. The power and representative nature of these parliamentary institutions varied from one state to another, but as David Kaiser argues, ''by 1914 every European government had to maintain a working majority within an elected parliament in order to carry on the essential business of the state''; Kaiser 1990, 275–76.

101. See Ward 1795; and von Martens 1795.

102. Gilbert 1951.

103. By one count, between 1648 and 1814 European states concluded only 127 multilateral treaties, less than one per year. In the period between 1814 and 1914, however, the figure jumped to 817; see Mostecky 1965. See also Murphy 1994; and Hill 1991, 90.

1899, the court's evolution provides a window on the normative ascendancy of contractual international law and its development as a basic institutional practice of modern international society. The importance of this concept of law in the court's constitution also highlights the radical difference between ancient Greek and modern practices of arbitration. These two institutional developments evolved through three stages: foundation, construction, and renovation. The first stage centered on the Hague Conferences of 1899 and 1907, the second on the Versailles Peace Conference of 1919, and the third on the San Francisco Conference of 1945.

Foundation: The Hague

The Hague Conferences were a crucial watershed in the influence of the legislative norm of pure procedural justice on the basic institutional practices of international society, for there European states first collectively endorsed the basic institutional practices of multilateralism and contractual international law. The Concert of Europe had institutionalized regular meetings of the great powers, but these gatherings lacked the universalist and legislative ideals that inspired the Hague Conferences. Initially convened to stem the economically debilitating and militarily destabilizing arms race between the European powers, they were explicitly intended to enable the relatively small community of recognized sovereign states to formulate general, reciprocally binding rules of international conduct. Diplomacy, asserted the president of the First Hague Conference, ''is no longer merely an art in which personal ability plays an exclusive part; its tendency is to become a science which shall have fixed rules for settling disputes . . . and it cannot be disputed that great progress will have been made if diplomacy succeeds in establishing in this Conference some of the rules of which I have just spoken.''[104] In opening the Second Hague Conference, the Dutch minister of foreign affairs declared that such conferences were ''convoked to discuss rules of international law and to give them precision.''[105] To this end, delegates at the two conferences formulated an extensive new body of international laws governing the conduct of war and the nature and use of armaments.

They also moved to establish a judicial institution to interpret international law and to adjudicate disputes between states. The First Hague Conference established the Permanent Court of Arbitration, a body then consisting of little more than a list of nominated arbitrators from which disputing parties could select a tribunal to settle their differences. According to the conference's Third Commission, responsible for drafting the Convention for the Pacific Settlement of International Disputes, the ''farther law progresses, and the more it enters into the society of nations, the more clearly arbitration appears woven into the structure of that society.''[106] Reflecting the jurisdictional canons applied to domestic courts, the new court's role was explicitly restricted to the interpretation of law, understood principally as codified, reciprocal

104. Scott 1917, 9.
105. Ibid., 195.
106. Ibid., 55.

accords. Delegates insisted that a judicial body—national or international—could not, and should not, deal with nonlegal questions. The new court's jurisdiction, reported the Third Commission, was strictly limited to ''questions of a legal nature and principally questions of the interpretation or application of treaties. . . . Differences where the opposing claims of the parties cannot be stated as legal propositions are thus . . . outside the jurisdiction of an institution called upon to 'speak the law.' ''[107] As we have seen, confining arbitration within such bounds would have been incomprehensible to the ancient Greeks, whose system relied on the judge's sense of justice—the ability to arrive at an equitable and fair decision in the absence of a body of codified interstate law. As Adda Bozeman observes, ''Modern arbitration, when compared with Greek arbitration, assumes the character of litigation.''[108]

Construction: Versailles

In 1919, after four years of unprecedented violence and suffering, the world's leaders convened at the Palace of Versailles to construct a new, more peaceful international order.[109] The basic institutional framework established under the Covenant of the League of Nations built on the institutional initiatives pursued at The Hague and reflected a consensus on basic architectural principles among the key members of the winning coalition—Britain, France, and the United States—not the hegemony of a single power. The earliest drafts of the Covenant—Britain's Phillimore Report of March 1918, and the July 1918 draft by the American diplomat Colonel Edward House—envisaged a general conference of states and an international court, the same structure later advocated by the French at Versailles.[110] This basic institutional framework was eventually augmented by the addition of an executive council of great powers. First advocated in a December 1918 draft by General Jan Smuts, the structure of a conference, a council, and a judicial system found expression in all subsequent British and American drafts.[111] These drafts differed, however, over the nature of the judicial institution to be created, with the British favoring a permanent court, and Woodrow Wilson proposing a looser system of tribunals.[112] Immediately prior to the opening of the Paris Conference, the British and American delegations agreed on a single draft covenant—the Hurst-Miller draft—which incorporated London's vision of a permanent judicial court and provided the basis for all future negotiations.[113]

Holding regular conferences of states had been on the agenda since the end of the Second Hague Conference. In 1907, Elihu Root, the U.S. secretary of state, told the

107. Ibid., 55.
108. Bozeman 1960, 84.
109. The classic works on the Paris Peace Conference are Miller 1928; Marburg 1932; Baker 1923; Lloyd George 1938; House and Seymour 1921; Nicolson 1919; Duggan 1919; and Schwarzenberger 1936.
110. Baker 1923, 67–88, 152–62.
111. Ibid., 94–99.
112. Ibid., 117–43.
113. Ibid., 144–51.

Senate that the ''achievements of the two [Hague] conferences justify the belief that the world has entered upon an orderly process through which, step by step, in successive Conferences . . . there may be continual progress toward making the practice of civilized nations conform to their peaceful professions.''[114] The upheaval of World War I belied Root's optimism, but it also transformed the idea of regular conferences into calls for a permanent conference of states, calls that were realized in the creation of the League of Nations' Assembly. From the outset, the assembly was envisaged as a quasi-legislative body, to be charged with the promulgation of reciprocally binding rules of international conduct. In a letter accompanying his draft covenant of July 1918, House explained to Wilson that for ''all intents and purposes the representatives of the contracting powers [will] become automatically an International Parliament, and I am sure it will be necessary for them to be in almost continuous session.''[115] In the end, however, the assembly fell well short of this ideal. Its decision-making role was largely reactive, in most cases requiring the great power–dominated council to refer to it matters for consideration. The only avenue it had to initiate debate lay in Article 19 of the Covenant, which allowed it to ''advise the reconsideration by Members of the League of treaties which had become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world.''[116] Yet within this highly circumscribed realm of legitimate activity, the fact that assembly resolutions had to be unanimous suggests that the League's architects assumed that such decrees would carry some weight. Of course, the unanimity rule also paralyzed the assembly, as well as the council, preventing the collective action needed to sustain international order.

Attempts were made at the Second Hague Conference to create a more effective judicial institution than the Permanent Court of Arbitration. Because the court's tribunals were selected by disputing parties to hear specific cases, it lacked the continuity needed to develop a consistent set of judicial interpretations of international law. Delegates thus moved to establish a permanent Judicial Arbitration Court, but disagreements over the selection of judges meant that a new court was not created until the Versailles Conference.[117] When finally established, the role of the Permanent Court of International Justice was again restricted to the interpretation of narrowly defined contractual international law, or evidence thereof. Britain's Phillimore Report set the tone for all subsequent statements on the Court's legitimate sphere of operation, licensing judges to adjudicate disputes between states ''as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which if established would constitute a breach of any international obligation, or as to the nature and extent of the reparation to be made for any breach.''[118] As this conception of the court's role was echoed in the American and French draft covenants, it is not surprising that the final Covenant of the League of Nations defines its

114. U.S. Senate 1907.
115. Baker 1923, 80.
116. Ibid., 183.
117. Choate 1913, 81.
118. Baker 1923, 75.

jurisdiction in virtually the same words. Finally, the court's role in interpreting codified international law was made abundantly clear in its statute, which directed judges to apply international conventions, international custom ''as evidence of a general practice accepted as law,'' ''general principles of law recognized by civilized nations,'' and the ''judicial decisions and teachings of the most highly qualified publicists of the various nations, as a subsidiary means for the determination of rules of law.''[119] Each of these sources was thought to provide evidence of reciprocal accords between states, the essence of modern contractual international law.

Renovation: San Francisco

Despite claims that idealistic faith in multilateralism and international law contributed to the outbreak of World War II, the architects of the post-1945 international order did not abandon these institutional commitments. The new order was again constructed around the basic and by now familiar architectural principles laid down at The Hague: that there should be a regular or permanent conference of states based on the principle of multilateralism, and that there should be an international judicial body to interpret contractual international law. Upheld by the Atlantic Charter, the Dumbarton Oaks Conference, and the Yalta Agreements, these principles were given new life through a substantial process of renovation.

Negotiators at the San Francisco Conference substantially strengthened the permanent conference of states, a move explicitly designed to facilitate and encourage peace through international law. In comparison to the largely reactive role of the League's assembly, the Charter of the United Nations grants the General Assembly a quasi-legislative role. In fulfilling the organization's primary purpose of solving international disputes ''in conformity with the principles of justice and international law (Article 1),'' the General Assembly is authorized to ''initiate studies and make recommendations for the purposes of . . . promoting international cooperation in the political field and encouraging the progressive development of international law and its codification.''[120] It does this in two ways. First, according to Nagendra Singh, former president of the International Court of Justice, the General Assembly is empowered to adopt general legal conventions, convene international conferences which then produce such conventions, and pass resolutions.[121] The last of these, Rosalyn Higgins argues, are not necessarily binding, but when they embody general rules of conduct they become an important source of customary international law.[122] Second, in 1947 the General Assembly established the International Law Commission to prepare ''draft conventions on subjects which have not yet been regulated international law or in regard to which the law has not yet been sufficiently developed,'' and to codify ''international law in fields where there already has been extensive state

119. Wheeler-Bennett and Fanshawe 1929, 53.
120. Brownlie 1983, 2, 5.
121. Singh 1993, 392–93.
122. Higgins 1963, 5.

practice, precedent, and doctrine.''[123] If the recommendations of the commission are adopted by the General Assembly, they further the development of contractual international law.

The competence of the judicial body created at San Francisco once again provides a useful indicator of the prevailing conception of international law. Although delegates decided to replace the League's court with the International Court of Justice, the new institution's statute was little more than a revision of its predecessor's. It too limits the court's jurisdiction to the adjudication of narrowly defined legal disputes involving ''the interpretation of a treaty,'' ''any question of international law,'' ''the existence of any fact which, if established, would constitute a breach of an international obligation,'' and ''the nature or extent of the reparation to be made for the breach of an international obligation.''[124] In ruling on such disputes, judges are expected to base their decisions solely on the terms of relevant agreements or on evidence of reciprocally binding norms and principles embraced by the community of states. Since the idea of law as reciprocal accord was by this time fundamental to the domestic legitimacy of the leading states, and was already institutionalized at the international level by the Hague and Versailles Conferences, it was unlikely that the new court's jurisdiction would depart very far from past practices.

Post-1945 initiatives thus reasserted and reconstructed institutional principles and structures that were first endorsed and initiated by leading European states in the late nineteenth century. The proliferation of these basic institutional practices, and their application to an ever widening realm of interstate relations, was of course greatly accelerated by American attempts to transplant the principles of the New Deal regulatory state into the international arena. In the history of modern international society, however, this seems less a period of architectural innovation than one of mass construction.

Conclusion

Because societies of states emerge in different cultural and historical contexts, they evolve different constitutional structures characterized by different conceptions of the moral purpose of the state and different ideas about procedural justice. This in turn leads them to construct different fundamental institutions. Culturally and historically contingent beliefs about what constitutes a ''civilized'' state, and how such states ought to solve cooperation problems, exert a far greater influence on basic institutional practices than do material structural conditions, the strategic imperatives of particular cooperation problems, or the stabilization of territorial property rights. By conceiving the normative foundations of international societies in terms of constitutional structures, and by understanding how prevailing ideas about the moral purpose of the state undergird the organizing principle of sovereignty and inform

123. Sohn 1956, 33.
124. Brownlie 1983, 396.

notions of pure procedural justice, we can better explain why the ancient Greek city-states practiced interstate arbitration while modern states have constructed institutions of contractual international law and multilateralism.

By grounding basic institutional practices in constitutional structures, the core of which are intersubjective beliefs about the moral purpose of the state, the theoretical framework advanced here contrasts with Terry Nardin's much cited conception of international society as a ''practical association.'' According to Nardin, a ''practical association is a relationship among those engaged in the pursuit of different and possibly incompatible purposes, and who are associated with one another, if at all, only in respecting certain restrictions on how each may pursue his own purposes.''[125] International society, he contends, is just such an association. States pursue diverse ends, bound together only by the ''authoritative practices'' that facilitate coexistence, notably the fundamental institutions of international law and diplomacy.[126] While Nardin's conception of international society is intuitively persuasive, resonating with prevailing rationalist conceptions of society and the very real diversity of the contemporary world, it is historically ill-founded and conceptually misleading.

Practical association, for Nardin, is more fundamental than purposive association; *gesellschaft* precedes *gemeinschaft*. In reality, however, all historical societies of states have begun as gemeinschaft societies, as communities of states linked by common sentiment, experience, and identity.[127] This is true both of the ancient Greek and of the modern societies of states. This is not to suggest that modern international society is a gemeinschaft community or to deny the immense practical imperatives that sustain it. ''Present day international society,'' as Barry Buzan astutely observes, ''is a hybrid.''[128] On the one hand, it grew out of the culturally unified system of nineteenth century Europe, and an expanding community of liberal-constitutionalist states has remained at its core, prevailing as the winning coalition after each of this century's major conflicts, most recently the Cold War. Contemporary fundamental institutions were spawned in that earlier system; core states have been the principal agents in the production and reproduction of these practices, and their values of legitimate statehood and rightful state action have become hegemonic, shaping the modern constitutional structure, and, in turn, defining the discursive terrain in which institutional construction has taken place. On the other hand, modern international society is multicultural, extending beyond the liberal-constitutionalist core to encompass a wide variety of states. The practical imperatives of coexistence under conditions of high interdependence have, however, encouraged these states to employ, even further, existing ''Western'' institutional practices. A ''striking feature of the global international society of today,'' Bull and Watson observe, ''is the extent to which the states of Asia and Africa have embraced such basic elements of European international society as the sovereign state, the rules of international law, the proce-

125. Nardin 1983, 9.
126. Ibid., 19.
127. Wight 1977, 33.
128. Buzan 1993, 349.

dures and conventions of diplomacy, and international organization.''[129] In one sense, therefore, modern international society is indeed a practical association, but in an equally important, deeply structural sense, it is informed by the institutional and organizational values of the constitutively prior European (now Western) gemeinschaft society.

Nardin's failure to grasp the purposive foundations of practical international society, particularly the intersubjective values that inform the social identity of the state and standards of rightful state action, greatly undermines the heuristic power of his theoretical perspective. Although he gives primacy to authoritative practices such as international law and diplomacy in his account of international society, he cannot explain the form these practices take or why they vary from one society of states to another. International law is presented as the codification of customary state practices, but this merely begs the question of why certain practices become the favored, routinized methods of facilitating interstate cooperation.[130] In a passing observation, Nardin writes that practices ''always reflect an ideal conception of the activities out of which they grow and of the agents engaged in them: the virtuoso performance, the just war, the responsible parent, the 'perfect ambassador.' ''[131] Yet his own perspective on international society forecloses any systematic analysis of these deeper intersubjective values that define legitimate agency and action. The constructivist theory outlined in this article places these values at the fore, acknowledging the historical and cultural particularity of different societies of states, enabling us to explain their divergent institutional practices.

References

Arendt, Hannah. 1958. *The Human Condition.* Chicago: Chicago University Press.

Adcock, Frank, and D. J. Mosley. 1975. *Diplomacy in Ancient Greece.* London: Thames and Hudson.

Andrews, A. 1966. The Government of Classical Sparta. In *Ancient Society and Institutions: Studies Presented to Victor Ehrenberg,* edited by E. Badian, 1–20. Oxford: Basil Blackwell.

Aristotle. 1962. *Nicomachean Ethics*. New York: Bobbs-Merrill.

———. 1981. *The Politics*. Harmondsworth: Penguin.

Ashley, Richard K. 1988. Untying the Sovereign State: A Double Reading of the Anarchy Problematic. *Millennium: Journal of International Studies*. 17:227–62.

Axelrod, Robert, and Robert O. Keohane. 1985. Achieving Cooperation Under Anarchy: Strategies and Institutions. *World Politics* 38:226–54.

Baker, Ray Stannard. 1923. *Woodrow Wilson and World Settlement.* 3 vols. London: Heinemann.

Bartelson, Jens. 1995. *A Genealogy of Sovereignty*. Cambridge: Cambridge University Press.

Bauslaugh, Robert A. 1989. *The Concept of Neutrality in Classical Greece*. Berkeley: University of California Press.

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

Bodin, Jean. 1967. *Six Books of the Commonwealth*. Oxford: Basil Blackwell.

129. Bull and Watson 1984, 433.
130. Nardin 1983, 305.
131. Ibid., 6

Bozeman, Adda. 1960. *Politics and Culture in International History*. Princeton, N.J.: Princeton University Press.
Brownlie, Ian, ed. 1983. *Basic Documents in International Law*. Oxford: Clarendon.
Bull, Hedley. 1977. *The Anarchical Society: A Study of Order in World Politics*. London: Macmillan.
Bull, Hedley, and Adam Watson. 1984. Conclusion. In *The Expansion of International Society*, edited by Hedley Bull and Adam Watson, 425–35. Oxford: Clarendon Press.
Burley, Anne-Marie. 1993. Regulating the World: Multilateralism, International Law, and the Projection of the New Deal Regulatory State. In *Multilateralism Matters: The Theory and Praxis of an Institutional Form*, edited by John Gerard Ruggie, 125–56. New York: Columbia University Press.
Buzan, Barry. 1993. From International System to International Society: Structural Realism and Regime Theory Meet the English School. *International Organization* 47:327–52.
Choate, Joseph. 1913. *The Two Hague Conferences*. Princeton, N.J.: Princeton University Press.
Collins, Stephen L. 1989. *From Divine Cosmos to Sovereign State: An Intellectual History of Consciousness and the Idea of Order in Renaissance England*. Oxford: Oxford University Press.
Connolly, William E. 1993. *The Terms of Political Discourse*. Princeton, N.J.: Princeton University Press.
Cook, Chris, and John Stevenson. *The Longman Handbook of Modern British History: 1714–1980*. London: Longman.
de Callières, François. 1983. *The Art of Diplomacy*. New York: Holmes and Meier.
DiMaggio, Paul J., and Walter W. Powell. 1991. Introduction. In *The New Institutionalism in Organizational Analysis*, edited by Walter W. Powell and Paul J. DiMaggio, 1–40. Chicago: University of Chicago Press.
Donnelly, Jack. 1989. *Universal Human Rights in Theory and Practice*. Ithaca, N.Y.: Cornell University Press.
Duggan, Stephen Pierce, ed. 1919. *The League of Nations: The Principle and the Practice*. London: Allen and Unwin.
Finnemore, Martha. 1996. *National Interests in International Society*. Ithaca, N.Y.: Cornell University Press.
Fliess, Peter. 1966. *Thucydides and the Politics of Bipolarity*. Nashville: Louisiana State University Press.
Garner, Richard. 1987. *Law and Society in Classical Athens*. London: Croom Helm.
Gilbert, Felix. 1951. The New ''Diplomacy'' of the Eighteenth Century. *World Politics* 4:1–38.
Gilpin, Robert. 1981. *War and Change in World Politics*. Cambridge: Cambridge University Press.
———. 1988. The Theory of Hegemonic War. *Journal of Interdisciplinary History* 18:591–613.
———. 1991. Peloponnesian War and Cold War. In *Hegemonic Rivalry from Thucydides to the Nuclear Age*, edited by Richard Ned Lebow and Barry S. Strauss, 31–49. Boulder, Colo.: Westview Press.
Goldstein, Judith. 1993. Creating the GATT Rules: Domestic Politics and Multilateral Cooperation. In *Multilateralism Matters: The Theory and Praxis of an Institutional Form*, edited by John Gerard Ruggie, 201–32. New York: Columbia University Press.
Gong, Gerrit W. 1984. *The Standard of Civilization in International Society*. Oxford: Clarendon Press.
Habermas, Jürgen. 1984. *Theory of Communicative Action*. Boston: Beacon Press.
———. 1991. *Moral Consciousness and Communicative Action*. Cambridge, Mass.: MIT Press.
Hamilton, Keith, and Richard Langhorne. 1995. *The Practice of Diplomacy*. London: Routledge.
Hansen, Morgens H. 1992. The Tradition of Athenian Democracy A.D. 1750–1990. *Greece and Rome* 39:14–30.
Heller, Agnes. 1987. *Beyond Justice*. Oxford: Basil Blackwell.
Herodotus. 1972. *The Histories*. Harmondsworth: Penguin.
Higgins, Rosalyn. 1963. *The Development of International Law Through the Political Organs of the United Nations*. Oxford: Oxford University Press.
Hill, Christopher. 1991. Diplomacy and the Modern State. In *The Condition of States: A Study in International Theory*, edited by Cornelia Navari, 84–101. Milton Keynes: Open University Press.
Holsti, Kalevi J. 1991. *Peace and War: Armed Conflicts and International Order 1648–1989*. Cambridge: Cambridge University Press
House, Edward Mandall, and Charles Seymour, eds. 1921. *What Really Happened at Paris*. London: Hodder and Stoughton.

Hume, David. 1978. *A Treatise on Human Nature*. Oxford: Clarendon Press.
Humphreys, Sally. 1983. The Evolution of Legal Process in Ancient Attica. In *Tria corda: Scritti in onore di arnaldo momigliano*, edited by E. Gabba, 229–56. Como: Edizioni New Press.
———. 1985. Social Relations on Stage: Witnesses in Classical Athens. *History and Anthropology* 1: 313–69.
———. 1988. The Discourse of Law in Archaic and Classical Greece. *Law and History Review* 6:465–93.
Jackson, Robert H. 1990. *Quasi-States: Sovereignty, International Relations, and the Third World.* Cambridge: Cambridge University Press.
Kaiser, David. 1990. *Politics and War: European Conflict from Philip II to Hitler.* Cambridge: Harvard University Press.
Kantorowicz, Ernst. 1957. *The King's Two Bodies: A Study in Medieval Political Theology.* Princeton, N.J.: Princeton University Press.
Katzenstein, Peter J. 1996. *The Culture of National Security: Norms and Identity in World Politics.* New York: Columbia University Press.
Keohane, Robert O. 1984. *After Hegemony: Cooperation and Discord in the World Economy.* Princeton, N.J.: Princeton University Press.
———. 1989. *International Institutions and State Power*. Boulder, Colo.: Westview Press.
Klotz, Audie. 1995a. *Norms in International Relations: The Struggle Against Apartheid.* Ithaca, N.Y.: Cornell University Press.
———. 1995b. Norms Reconstituting Interests: Global Racial Equality and U.S. Sanctions Against South Africa. *International Organization* 49:451–78.
Koslowski, Rey, and Friedrich V. Kratochwil. 1995. Understanding Change in International Politics: The Soviet Empire's Demise and the International System. In *International Relations Theory and the End of the Cold War*, edited by Richard Ned Lebow and Thomas Risse-Kappen, 127–66. New York: Columbia University Press.
Krasner, Stephen D. 1976. State Power and the Structure of International Trade. *World Politics* 28:233–54.
———. 1983. *International Regimes*. Ithaca, N.Y.: Cornell University Press.
———. 1988. Sovereignty: An Institutional Perspective. *Comparative Political Studies* 21:66–94.
Laqueur, Walter, and Barry Rubin. 1979. *The Human Rights Reader*. New York: Penguin.
Maio, Dennis Peter. 1983. *Politeia* and Adjudication in Fourth-Century B.C. Athens. *American Journal of Jurisprudence* 28:16–45.
Marburg, Theodore. 1932. *Development of the League of Nations Idea.* 2 vols. New York: Macmillan.
Martin, Lisa. 1993. The Rational Choice of Multilateralism. In *Multilateralism Matters: The Theory and Praxis of an Institutional Form*, edited by John Gerard Ruggie, 91–124. New York: Columbia University Press.
McCall, George T., and J. L. Simmons. 1966. *Identities and Interactions*. New York: Free Press.
Miller, David Hunter. 1928. *The Drafting of the Covenant.* 2 vols. New York: Putnam.
Mearsheimer, John J. 1994/95. The False Promise of International Institutions. *International Security* 19:5–49.
Morgenthau, Hans J. 1949. Positivism, Functionalism, and International Law. *American Journal of International Law* 34:260–84.
Morrow, James D. 1994. Modeling the Forms of International Cooperation: Distribution versus Information. *International Organization* 48:387–424.
Mostecky, Vaclav. 1965. *Index of Multilateral Treaties: A Chronological List of Multi-Party International Agreements from the Sixteenth Century Through 1963*. Cambridge, Mass.: Harvard Law School Library.
Murphy, Craig N. 1994. *International Organization and Industrial Change: Global Governance Since 1850*. Oxford: Oxford University Press.
Nardin, Terry. 1983. *Law, Morality, and Relations of States*. Princeton, N.J.: Princeton University Press.
Nicolson, Harold. 1933. *Peacemaking 1919*. London: Constable.
Niebuhr Tod, Marcus. 1913. *International Arbitration Amongst the Greeks.* Oxford: Clarendon.
Ober, Josiah. 1989. *Mass and Elite in Democratic Athens*. Princeton, N.J.: Princeton University Press.
Onuf, Nicholas G. 1991. Sovereignty: Outline of a Conceptual History. *Alternatives* 16:425–46.
Osborne, Robin. 1985. Law in Action in Classical Athens. *Journal of Hellenic Studies* 105:40–58.

Ostwald, Martin. 1986. *Law, Society, and Politics in Fifth Century Athens*. Berkeley: University of California Press.
Phillipson, Coleman. 1911. *The International Law and Custom of Ancient Greece and Rome*. Vols. 1 and 2. London: Macmillan.
Raeder, A. 1912. *L'Arbitrage international chez les Hellenes*. New York: Putnam and Sons.
Ralston, Jackson H. 1929. *International Arbitration from Athens to Locarno*. Stanford, Calif.: Stanford University Press.
Rawls, John. 1955. Two Concepts of Rules. *The Philosophical Review* 64:3–32.
———. 1972. *A Theory of Justice*. Oxford: Oxford University Press.
Rousseau, Jean-Jacques. 1988. On Social Contract or Principles of Political Right. In *Rousseau's Political Writings*, edited by Alan Ritter and Julia Conway Bondanella, 20–150. New York: Norton.
Ruggie, John Gerard. 1983. Continuity and Transformation in the World Polity: Toward a Neorealist Synthesis. *World Politics* 35:261–85.
———. 1993a. Multilateralism: The Anatomy of an Institution. In *Multilateralism Matters: The Theory and Praxis of an Institutional Form*, edited by John Gerard Ruggie, 3–50. New York: Columbia University Press.
———. 1993b. Territoriality and Beyond: Problematizing Modernity in International Relations. *International Organization* 47:139–74.
———. 1996. *Winning the Peace: America and World Order in the New Era*. New York: Columbia University Press.
Schwarzenberger, George. 1936. *The League of Nations and World Order*. London: Constable.
Scott, James Brown. 1917. *Reports to the Hague Conferences of 1899 and 1907*. Oxford: Clarendon Press.
Sealey, Raphael. 1976. *The History of the Greek City-States: 700–338 B.C.* Berkeley: University of California Press.
———. 1987. *The Athenian Republic: Democracy or the Rule of Law*. University Park: Pennsylvania State University Press.
Singh, Nagendra. 1993. The UN and the Development of International Law. In *United Nations, Divided World: The UN's Role in International Relations*, edited by Adam Roberts and Benedict Kingsbury, 384–419. Oxford: Clarendon Press.
Skinner, Quentin. 1978. *The Foundations of Modern Political Thought*. Vol. 1: *The Renaissance*. Cambridge: Cambridge University Press.
Smith, Adam. 1976. *An Inquiry into the Nature and Causes of the Wealth of Nations*. Chicago: University of Chicago Press.
Sohn, Louis B., ed. 1956. *Basic Documents on the United Nations*. London: Stevens and Sons.
Stein, Arthur A. 1983. Coordination and Collaboration: Regimes in an Anarchic World. In *International Regimes*, edited by Stephen D. Krasner, 115–40. Ithaca, N.Y.: Cornell University Press.
———. 1990. *Why Nations Cooperate: Circumstance and Choice in International Relations*. Ithaca, N.Y.: Cornell University Press.
Strang, David. 1996. Contested Sovereignty: The Social Construction of Colonial Imperialism. In *State Sovereignty as Social Construct*, edited by Thomas J. Biersteker and Cynthia Weber, 22–47. Cambridge: Cambridge University Press.
Thomson, David. 1962. *Europe Since Napoleon*. London: Longmans.
Thomson, Janice E. 1994. *Mercenaries, Pirates, and Sovereigns*. Princeton, N.J.: Princeton University Press.
Thucydides. 1972. *History of the Peloponnesian War*. Harmondsworth: Penguin.
U.S. Senate. 1907. 60th Cong., 1st sess., S Doc. 444.
von Martens, G. F. 1795. *Summary of the Law of Nations Founded on the Treaties and Customs of Modern Nations*. Philadelphia, Penn.: Thomas Bradford.
Waltz, Kenneth N. 1979. *Theory of International Politics*. New York: Random House.
Ward, Robert. 1795. *An Enquiry into the Foundations and History of the Law of Nations from the Time of the Greeks to the Age of Grotius*. Vol. 1. London: Butterworth.
Weber, Cynthia. 1995. *Simulating Sovereignty: Intervention, the State, and Symbolic Exchange*. Cambridge: Cambridge University Press.

Weber, Steven. 1993. Shaping the Postwar Balance of Power: Multilateralism in NATO. In *Multilateralism Matters: The Theory and Praxis of an Institutional Form*, edited by John Gerard Ruggie, 233–92. New York: Columbia University Press.

Weingast, Barry R. 1995. A Rational Choice Perspective on the Role of Ideas: Shared Belief Systems and State Sovereignty in International Cooperation. *Politics and Society* 23:449–64.

Wendt, Alexander. 1992. Anarchy Is What States Make of It: The Social Construction of Power Politics. *International Organization* 46:391–425.

———. 1994. Collective Identity Formation and the International State. *American Political Science Review* 88:384–96.

Wendt, Alexander, and Raymond Duvall. 1989. Institutions and International Order. In *Global Changes and Theoretical Challenges: Approaches to World Politics for the 1990s*, edited by Ernst-Otto Czempiel and James N. Rosenau, 51–74. Lexington, Mass.: Lexington Books.

Westermann, William L. 1907. Interstate Arbitration in Antiquity. *The Classical Journal* 2:197–211.

Wheeler-Bennett, J. W., and Maurice Fanshawe. 1929. *Information on the World Court 1918–1928*. London: Allen and Unwin.

Wight, Martin. 1977. *Systems of States*. Leicester: Leicester University Press.

Young, Oran R. 1986. International Regimes: Toward a New Theory of Institutions. *World Politics* 39: 104–22.